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ABSTRACT

This historical review of theories on criminality and mental retardation is part of Project CAMIO (Correctional Administration and the Mentally Incompetent Offender), a Texas study to determine the incidence of criminal incarceration of the mentally retarded (MR) and to identify laws, procedures, and practices which affect the prosecution and imprisonment of the MR offender. The review indicates that prior to the 19th century there was little effort to discriminate between the MR individual and the criminal offender, that early studies suggesting that MR predisposes a person to criminal acts have been replaced by evidence that the high percentage of MR individuals in the criminal justice system is due to administrative and legal factors, that advances in testing techniques and causal theories have led to correctional programs concerned with multivariate causes, that current correctional treatment sees the offender as a unique individual, that prejudicial attitudes toward the MR still exist within the criminal justice system, but that a growing philosophy concerning the right to treatment should facilitate the handling of the MR offender. The discussion examines MR from ancient times to the present and then reviews the relationship between MR and crime in terms of legalities, theories of MR and crime (such as religious, genetic, or environmental), and treatment of the defective offender. (DB)

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Theories on Criminality and Mental Retardation

PROJECT CAMIO

Volume 2

PROJECT CAMIO

CORRECTIONAL ADMINISTRATION AND THE MENTALLY INCOMPETENT OFFENDER

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1.0 INTRODUCTION

There is a growing awareness on the part of professionals that mental retardation is a special handicap which must be recognized and dealt with if treatment and rehabilitation are to be effective in the criminal justice system. Mentally retarded offenders are being regarded as special categories of individuals for whom new programs must be established within training schools, half-way houses, and prisons. The needs of the individual, in order to effectively change his behavior, must be considered. Thus, the mentally retarded present a special area of consideration for administrators and staff.

However, there is a lack of adequate understanding of what mental retardation is, how it occurs, and the role the deficient plays in society. It is the purpose of this report to review the field of mental retardation and its relationship to society and crime, both present and past. It is hoped that research will provide a basic understanding of the accomplishments within the field, as well as knowledge of the failures of society.

Research which will provide a concise overview of the field of mental retardation and its relation to crime will enable the professional to more fully understand the needs which exist within the field, and to implement programs to meet such demands. It is hoped that intensive study will provide a historical perspective in regard to the attitudes, theories, and programs which exist today.

1.1 Terminology

Most people can indicate almost intuitively what they mean by the mentally retarded: dull-witted, slow to understand, deficient in vocabulary, unable to manipulate symbols readily, and poor in memory. For many, mental retardation includes images of irresponsible behavior, timidity, reticence, clumsiness, sloppiness, carelessness, nervousness, and abnormality. Too often such impressions are false, and are the product of a lack of experience.

Fads in the use of terms denoting intellectual incompetence have appeared in rapid succession since 1900. The World Health Organization proposed in 1954 that the term "mental subnormality" be applied to the general condition with two subdivisions reflecting etiology. Biologically determined cases, denoted by the term "mental deficiency;" and "mental retardation," for socially determined cases, were chosen. However, this usage has been largely ignored in the literature.

Idiots. The very severely retarded have often been designated as being "severely defective," "idiots," or "totally dependent." References to the usage of the term "idiot" as an individual who is grossly deficient intellectually appeared in English literature about 1300. Chaucer used it in this sense in the Canterbury Tales. In 1648, John Milton wrote,

> By the civil laws a foole or Idiot born shall lose the lands where to he is born because he is not able to use aright.[1]

Traditionally, "idiot" has referred to individuals who are incapable of ordinary reasoning or rational conduct.

Imbeciles. The more severely retarded have been called "semi-dependent," "organically-impaired retarded," "low-grade mental defectives," "trainable," "imbeciles," implied a personal weakness. Early references to imbeciles (around 1550) did not indicate a mental defect, but a physical one. By 1750, however, the word "imbecile" applied to both physical and mental weakness. Accordingly, a century later, it seems to have become restricted to weakness of the mind.

Morons. Depending on context, mildly retarded persons have been referred to as "marginally independent," "debiles," "morons," "feebleminded," "educable retarded," or "familial" or "garden-variety defectives." The term "moron" was coined by Dr. Henry H. Goddard from Greek for "stupid" or "dull."

Feebleminded. The term "feebleminded" was first applied to persons of normal intelligence who were unable to perform adequately on a "normal" criterion of intellectual or moral behavior. The essayist, Macaulay, wrote in 1859 that "Rigid

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[1]Bernard Farber, Mental Retardation Its Social Context and Social Consequences (Boston: Houghton Mifflin Company, 1968), p. 41.

principles often do for feeble minds what stays do for feeble bodies."[2] Thus, historically, feeblemindedness has denoted a higher degree of intelligence than imbecility and has, instead, become equated with the word "moron."

Mental Retardation. The present accepted definition of mental retardation is stated as:

> ...subnormal general intellectual functioning which originated during the developmental period and is associated with impairment of either learning and social adjustment or maturation, or both.[3]

The classifications found under the present definition are:

"borderline mental retardation"-IQ range 68 to 83,
"mild mental retardation" -IQ range 52 to 67,
"moderate mental retardation" -IQ range 36 to 51,
"severe mental retardation" -IQ range 20 to 35,
"profound mental retardation" -IQ range under 20.

1.2 Etiology

For many years, research in the field of mental retardation focused upon finding the cause of mental deficiency. However, today it is recognized that there are many factors which may create or add to defective mental ability.

Heredity. Until recently, heredity was considered the greatest factor in mental retardation. The proof of heredity as being

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[2]Farber, Mental Retardation in Its Social Context, p. 5.

[3]The Committee on Nomenclature and Statistics of the American Psychiatric Association, Report of the Committee, Diagnostic and Statistical Manual of Mental Disorders (2nd ed.;Washington, D.C.: American Psychiatric Association, 1968), p. 14.

the sole cause of defectiveness is often open to question. However, it cannot be disregarded, as many studies have indicated mental retardation, cerebral palsy, speech involvement, deafness, and other neurological disorders tend to be found in certain families.

Prenatal Causes. The health of the mother during pregnancy affects both the physical and mental health of her child. Prenatal factors account for several types of mental deficency, and may affect the degree of mentality of the child in later life.

German Measles. The relation of German measles to mental retardation has been definitely established in recent years. German measles during the first three months of pregnancy can account for mental retardation, congenital heart trouble, congenital cataracts, and some defects within the nervous system.

Rh Factor. Recent investigations have disclosed a connection between mental retardation and imcompatible Rh factors in the parents and the child. Some cases of mental defectiveness are due to the differences in the Rh factor of the blood of the mother and the child. This is usually found when the mother is Rh negative and the child is Rh positive. Symptomatology includes severe jaundice or even death of the newborn.

Irradiation. It has been claimed by some investigators that repeated X-ray or radium treatment of the mother during pregnancy may result in some brain disturbance in the child. However, it is felt by most workers in the field that X-ray causes its damage only within the very early stages of the pregnancy.

Emotional State of the Mother. The emotional state of the mother at the time of pregnancy is being studied currently as a possible factor effecting the fetus.

Consanguinity. Blood relationship, particularly the marriage of first cousins has often been claimed as a factor in mental deficiency. The facts do not substantiate this claim. One may occasionally observe a case of mental retardation in a child whose parents are first cousins, but there are also cases of such offspring having unusual talents or high intelligence.

Age of the Parents. It was once thought that mongoloid children were born only to parents over forty years of age. It is now believed that there is a definite relationship between the youth of the mother and the occurrence of birth injuries. This claim is based upon the fact that cases of this kind have been found to occur most frequently in the children of young mothers. It is generally believed that the older the parents, the more chance of children with congenital defects, possibly due to a defect in the ovum or sperm.

Birth Abnormalities. Insufficient oxygen in the brain is one of the major birth abnormalities leading to mental retardation. Brain anoxia is usually associated with an inadequate supply of oxygen in the lungs. Oxygen hunger occurs when there is an obstruction in the breathing apparatus such as a plug of mucus in the windpipe. Difficult labor, prolonged labor, or premature separation of the placenta may cause neurological disturbance in the newborn resulting in cerebral anoxia.

There is some evidence that the anesthetic administered to the mother during delivery may be of significance in the causation of mental retardation. Brain hemorrhage does not imply injuries to the head due to the use of forceps or mechanical instruments. Brain injuries of this type occur during passage through the birth canal.

Disturbances of the brain may occur much more frequently in premature than in full-term babies due to the fact that blood vessels of the brains of prematurely born infants are thinner than those of a normal baby. The entire nervous system of the premature baby, being more delicate than that of the full-term infant, cannot well withstand the impact of life or the birth process.

Glandular Disturbances. Insufficient secretion of the thyroid gland may result in stunted growth, underdevelopment of bone structure, and retarded mental ability. This condition

is known as "cretinism." Sometimes the impaired function of other glands of internal secretion, as the pituitary and pineal gland, have an influence upon mental ability.

Chromosome Abnormality. Several theories have been advanced in regard to mongolism. Some authorities believe it is due to metabolic or endocrinal disturbances of the mother during pregnancy. Research concerning this syndrome has revealed abnormalities in the structure of the chromosomes of mongoloid children, and it is felt that there may possibly be a cause through defect of ovum and sperm.

Infections. Many cases of mental retardation can be traced to syphilis infection of the parents. The condition may often not be suspected until the child is about eight or nine years of age.

Many cases of mental retardation may be caused from other sources of infection, as encephalitis. Inflammation of the brain suffered during infancy or childhood may be followed by various degrees of mental deficiency. The inflammation may be due to infection caused by bacteria or some types of virus. Another cause of inflammation of the brain, which is a forerunner of impaired mental ability, is a parasite and and the resulting condition is known as "toxoplasmosis." Meningitis may be considered another cause of mental retardation resulting from infection.

Meningitis is inflammation of the covering of the brain, and when the damage extends to brain proper, mental retardation usually results. Sometimes the deficiency is due to pressure on the brain by cerebrospinal fluid which is always increased during meningitis.

Chemical Poisoning. The major cause of chemical poisoning which has produced mental retardation is that of lead poisoning.

Trauma. Some cases of mental deficiency may be traced to an injury of the head. In some cases the injury may have been minor, although trauma may have taken place.

Nutritional Disorders. There is accumulating evidence that shows disorders of nutrition may cause some disturbance of mentality. Although there is doubt as to which specific food element may be responsible for the deficiency in mental ability, it is known that when nutritional balance is restored there is marked improvement in the mental ability and reactions of the individual.

In some cases of mental retardation, there are no definite causes, and therefore, the etiology must be classified as unknown. In many cases, several factors work together to produce the deficiency.

1.3 Summary

Mental retardation is a neglected subject. This may be due to the facts that: physicians have skirted the field because of the apparent hopelessness of effecting specific cures; psychologists and educators have been primarily concerned with the normal child; and mental retardation has long been a source of alarm and embarrassment within society. It has long been thought that the mentally retarded were surplus population. It is hoped that the following chapters will clarify the reasons for such attitudes and the alternatives which are open for society today.

2.0 MENTAL RETARDATION FROM EARLY AGES TO THE PRESENT

There is faint evidence to the fact that mental retardation has existed throughout all generations of mankind. The views which have been expressed concerning this issue vary, from generation to generation, dependent upon the technology, cultural advancement, and religious or philosophical convictions held.

Earliest views of mental retardation are obscure and not clearly defined. However, there seems to exist a conviction of hereditary default throughout the early ages.

2.1 Early Ages

Rabbi Schlomo Izchaki (Rashi) in the Torahs Moische (printed in 1475) vaguely refers to the incidence of mental retardation in the biblical era through his study of the Torah and his attempts to interpret its passages. The Old Testament, according to Rashi, contains a standard regarding the compensation of an individual for bodily injuries. One such law concerns the injury of a pregnant woman and/or her unborn child. Within the law, the loss of the child may be taken as a literal loss through miscarriage, or as a figurative loss through its being born malformed or misshapen.

The law states:

> when people engage in a fight, and injure a pregnant woman who happens to be passing, and as a result of this injury she loses her child, but she herself does not die, the one who causes this injury is guilty, and should pay to the husband for the loss...[1]

The law existed upon the premise that the child, if it should live, would be of no value to the husband as an heir, worker, or possibly a slave. If the individual is so injured as to become useless or incapable, his capacity for contribution is diminished and his potential value must be provided to his family to compensate for their loss.

The Israelite concept of the importance of surviving children resulted in strict laws regarding procreation and sexual intercourse. Laws regarding cleanliness in these areas, especially those concerning venereal diseases, were strictly enforced. Rashi again makes reference to the mentally retarded and/or physically handicapped in his interpretations of the admonishments of the prophets and rabbis regarding the "father's sin (choton) and the children suffer for it (lokon)."[2]

Here the idea of the hereditary defect was perhaps not as clearly expressed as in present research, but was acknowledged as existing, for the usage of the terms "lokon" and "choton" infer the inheritance of the sin of gratification,

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[1]Charles J. Rim, Medicine in the Bible, (New York: Froben Press, 1936), p. 34.

[2]Ibid., p. 343.

syphilis. "In the iniquities of their fathers shall they decay."[3]

References in regard to mental retardation during the Greek and Roman civilizations are laconic. Some evidence is available to indicate that the ideologies concerning mental retardation were changing at the time.

The Roman emperor Domitian is chronicled as having spared two individuals from becoming sport in the arena as "from their answers, he despised them as idiots, and dismissed them accordingly."[4] The concept of heredity in regard to mental retardation was still apparent during this time. Emperor Claudius (10 B.C.-A.D. 54), when notified of the birth of his son, Nero, was quoted as saying, "From Agrippina and me only a monster and scourge of humanity can come forth."[5]

Claudius' heritage was that of a family in which some form of mental retardation was apparent. Claudius himself was described as weak and prone to drink. His grandmother had given birth to several sons, the youngest, Agrippa Posthumous, was "feeble in body and mind."[6]

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[3]Brim, Medicine, p. 344.

[4]John Foxe, The Book of Martyrs (London: Cassell and Company Limited, no date), p. 10.

[5]Theoplilus Bulkeley Hyslop, The Great Abnormals (London: Philip Alan and Company, 1925), p. 10.

[6]Ibid., p. 6.

It was, however, during this time, that the beliefs regarding the cause of mental retardation were being revised. Aristotle, in speaking of the essence of nature, explained that through the process of molding matter, the form of the natural function would in itself become misshapen and "this explains the occasional occurrence in nature of freaks, monstrosities, abortions, and unnatural births."[7]

Within the early ages, the treatment of the mentally retarded was not clearly defined. The Israelites were forbidden by rabbonic law to curse those who were less fortunate than themselves. Among the injuries which made an individual unclean and prevented him from entering the Temple, mental retardation was not listed.

The mentally retarded were, however, looked upon with disfavor as they were not useful to society. The term "mohrim" as used by Moses denotes the meaning of moron as it is taken from "moros," Greek for stupid. It is a word meaning stupid or of little faith, a term used occasionally in the Bible.

It is apparent, though not fully chronicled, that the Israelites were medically more advanced than other societies in the realm of prenatal care, child delivery, and child care. Multiple births were common, although it was usually

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[7]W. T. Stace, A Critical History of Greek Philosophy (London: MacMillan and Company, 1965), p. 291.

recorded that one of the children died, perhaps due to an abnormality.

The Greek and Roman views of mental retardation tend to be quite different. In the militaristic city-states of early Greece, it was common that "sickly infants" be "allowed to die from exposure."[8] Obviously defective children were said to have been cast into rivers or left on mountainsides. The laws of Lycurgus encouraged the deliberate abandonment of "idiots," a practice which was popular in Greece, and according to Cicero, was practiced among the Romans.[9]

Although infanticide was practiced, the mentally retarded did exist within the Greek and Roman societies as amusing curiosities.[10] At some time during their histories, the Greeks and Romans attributed divine intervention to the creation of the mentally defectives who lived within their societies.

Within the Roman era, mental retardation was equated with insanity and depravity of living. The references which

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[8]Ralph V. D. Magoffin and Frederic Duncalf, Ancient and Medieval History (New York: Silver, Burdett, and Company, 1934), p. 175.

[9]S. P. Davies, The Mentally Retarded in Society (New York: Columbia University Press, 1959), p. 8.

[10]Enid Welsford, The Fool, His Social and Literary History (New York: Doubleday and Company, 1961), p. 76.

exist, regarding emperors who may have been mentally deficient, emphasize the weakness of mind and the abnormal drinking, promiscuity, and sadistic acts of such men.

The Romans also tended to link mental defectiveness with crime, in that the weak in mind often violated religious law and in some cases violated secular law in their perverse actions and ways of life. Crime, however, was related with physical weakness and inherent dispositions to drink and debauchery.

2.2 The Medieval Period

The medieval period extended the beliefs that retardation was a curse, a demonic possession, or a visitation from God.[11] The retarded were ignored, cast out of the cities and society, left to die, or committed with the insane or the criminal.[12] Religious dogma dominated the philosophies of this era. Emphasis upon demonology in relationship to mental retardation existed until the latter part of the Renaissance.

Within the thirteenth century, the term "monster" was again applied to the mentally retarded. St. Thomas Aquinas (1227-1274) expressed the view that severe handicaps were the result of man's conflict with his destiny. The philosophic

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[11]Gerald R. Clark, A Synopsis of Mental Retardation (Pennsylvania: Elwyn Institute, 1967), p. 2.

[12]Abraham Levinson, The Mentally Retarded Child (New York: John Day and Company, 1965), p. 44.

concept of Original Sin was the rationale for such births. He stated, "For this reason in the operations of nature something amiss frequently happens, of which the births of monsters are examples."[13]

Aquinas postulated that the identical sins which create monsters also produce individuals "subject to generation and corruption."[14] Thus, the relationship between crime and mental retardation was again acknowledged.

Aquinas merely combined the philosophies of the Israelites with that of Aristotle to further the concept that mental retardation was an abnormal state, a punishment for sins, which man could not control nor treat other than through prayer and penitence.

The philosophy of demonic possession and sinful origin of retardation continued into the fourteenth and fifteenth centuries. Records suggest that during this time, the mentally retarded were part of the masses of people who roamed about from village to village, begging and stealing.

The beggers who were, from the written reports, most unwelcome, disagreeable, or dangerous were termed as "imbeciles."[15]

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[13] St. Thomas Aquinas, The Disputed Questions on Truth (Chicago: Henery Regnery Company, 1954), p. 164.

[14] Ibid.

[15] Welsford, Fool, p. 120.

There is some indication that the "imbeciles" were encouraged to wander about begging in order to "cater to the fashionable taste for exhibition of folly."[16] Such individuals were employed by brothels, corporations, kings, noblemen, taverns, and were in demand for pageants and processionals.

The earliest record of any special care for the mentally retarded may be found in the fourth century. The Bishop of Myra, St. Nicholas, was supposed to have been especially kind to the "unfortunates" and to have provided a special place in his monastery for them.[17]

Pope Innocent IV after the First Parliament deemed it necessary to provide a shelter and retreat for the poor and afflicted. Thus, in 1247, Bedlam was founded. It is recorded that there was much national resentment to the foundation of the hospital; so much so that the bishop-elect who was collecting money for the institution was beaten and had two ribs broken, and also suffered the insult of having his horse and servant tied to a stall and his horse's tail cut off.

Bedlam was not the first treatment center for the "afflicted." The Bethlemites in Europe had established hospitals in Padua

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[16] Ibid., p. 121.

[17] Levinson, Retarded Child, p. 44.

in 1186, Pavia in 1210, and served in eight hospitals and seventy churches by 1227. However, the treatment of the inmates of such institutions was of low quality as the staff "thought more of the salvability of (their) souls than of conferring protection for the afflicted mind."[18] Treatment of the inmates consisted of: ducking (sic); confinement in a church all night; use of ligatures and whips; being held over pans of brimstone while it burned in order to purge the individual of the devil within him; being left alone in a small room with only a Bible; simple food; and daily prayer.[19]

Within Bedlam, the mentally retarded were confined with the insane. Some of the residents of the "madman's pound" were allowed to beg on the streets during the day in order to obtain money to support the hospital. These were noted as being "wandering idiots"[20] and consisted of the more harmless insane, moderately retarded and those suffering from "crank" (epilepsy).

During the tenth century, Lanland refers to a mode of treatment for the mentally retarded whereby they were placed in

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[18]Hyslop, Abnormals, p. 149.

[19]Ibid., 151-164, et passim.

[20]Ronald Fuller, The Beggers' Brotherhood (London: George Allen and Unwin Limited, 1936), p. 67.

packs or groups, supplied with a keeper, and entertaining the populace with their abnormal behavior. These were "God's minstrels" who were collecting money in order to supply funds for their care at an institution.[21]

In certain localities, the mentally defective unwittingly received homage and reverence through the religious superstition that they were "les enfants du bon Dieu," sacred beings having mysterious connections with the unknown.[22] Barr cited examples of such treatment when he wrote:

> Proof of this commonly accepted belief that these creatures walked on earth but held their conversation in heaven is shown in the fact that Tycho Brahe had for his close companion a fool to whose mutterings the great astronomer listened as to a revelation.[23]

Within the Medieval Period, the dogma of the church dictated the diagnosis and treatment of the mentally retarded and the mentally ill. The contempt of the general public was mixed with superstitious awe. "Madmen were possessed....The Daemon had to be chastised."[24] The "antick" (one within a hospital) must be made to suffer sufficiently through flogging, prayer, exorcism, and bodily punishment in order to drive away the demon. If the body became too unpleasant and tortured, the demon would desert it.

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[21] Ibid., p. 78.

[22] Davies, Mentally Retarded in Society, p. 9.

[23] Ibid.

[24] Fuller, Brotherhood, p. 79.

However, in spite of the public attitude, many individuals who were mentally retarded were kept for private entertainment, exploited by others, turned into business assets, etc. Many children who apparently had been born normal, were damaged until they became retarded in order that their parents might use them as means of begging money. The more grossly deformed and retarded the child, the more people would give in the name of charity to be entertained by its actions and attempts to survive.[25]

Success for many was "extreme grotesqueness." "Deformed monstrosities" were eagerly purchased by those who could afford such luxuries.[26]

The practice of keeping the deformed and mentally retarded can be traced to the Ptolemies, throughout Egypt, and into Rome. Ancient Greece, however, did not participate in the practice. In the Roman Empire, it was customary for wealthy individuals to keep half-witted slaves for their personal amusement. Alexander Serverus is said to have had more male and female "creatures" than he could use (they were willed to him by his predecessor, Heliogabalus) and thusly, he gave them away to the populace. Plutarch described the market in Rome as being a haven for those who would pay no attention to the young girls and boys for sale, yet would seek-out

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[25]Fuller, Brotherhood, et passim.

[26]Welsford, Fool, p. 126.

freaks and monstrosities. Apparently, in the Roman era as in the Medieval ages, imbecility, like deformity, had evidently great pecuniary value. "He has been described as an idiot," Martial cries indignantly, "I bought him for twenty thousand sesterces. Give me back my money, Gargianus, he has his wits."[27]

Within the Medieval period, the mentally retarded played an important role in society. They were a form of insurance for the rich, which provided them protection from maladies as the "Evil Eye," various curses, and demonic possession. The retardate was important to the church structure as an example of the sins of man embodied in a living organism.

There is an extreme dichotomy between the treatment of the mentally retarded owned by the rich and those fending for themselves. The individuals included in the household possessions of the king or those of noble rank were fed, housed, and clothed as the members of the family. Their deaths were mourned, and often their bodies were buried within the family tombs. They were mascots for the house, and were kindly kept as pets.

The wandering idiot of this era, however, suffered much. The poor fool was "whipped from tithing to tithing"[28] (whipped

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[27]Welsford, Fool, p. 59.

[28]Hyslop, Abnormals, p. 153.

from village to village), or was chained to the walls of the castle or courthouse by means of an iron collar.

With the advent of the Renaissance, the advancement of scientific knowledge began to change the outlook for the mentally retarded.

2.3 The Renaissance Period

The use of the mentally retarded as a means of entertainment and personal pleasure became more confined to the rich. Within the sixteenth and seventeenth centuries, a compliment to the "fool of the house" was a compliment to the owner, and the rich "took a pride in possessing rare specimens of folly or deformity..."[29]

However, as society began to change, the philosophy regarding the mentally retarded began to change. The concepts of demonic possession and sinful origin continued into this era, although the concept of "free will" was gaining more and more acceptance.

The Elizabethans became concerned with the retarded in relation to the vast number of crimes in which "wandering idiots" and unattached individuals were becoming involved. Martin Luther, in 1528, expressed the views of the populace in his

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[29]Welsford, Fool, pp.136-37.

book, The Book of Vagabonds and Beggars. Luther wrote of twenty-eight categories of beggars of whom the people should be most wary, one of which is the "dutzbetterins, or lying-in women, who pretend to have been recently confined or that they have been pregnant with a monster which they must support."[30]

Luther (and Calvin) felt that incompetents were "filled with Satan." Yet, it was through concern for the number of non-productive individuals wandering about and the religious philosophies of the times that many hospitals for the mentally ill and retarded were founded.

St. Vincent de Paul and his "Sisters of Charity" in the sixteenth century administered and provided kindly treatment for the retarded and others who were placed under their care in the Bicetre. According to one tradition, a hair from the beard of St. Simon placed about the head or neck of an idiot would make his mind whole.[31]

The first crude attempt at a definition of mental retardation appeared in 1534 and was attributed to Sir Anthony Fitz-Herbert. The definition focused upon the ability to understand

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[30]Charles James Ribton-Turner, A History of Vagrants and Vagrancy, and Beggars and Begging, (London: Chapman and Hall, 1887), p. 546.

[31]S. P. Davies, Social Control of the Mentally Retarded (New York: Thomas Y. Crowell, 1930), p. 9.

"what is for his profit and what is for his loss."[32] However, much of the concern for the mentally deficient was less for their treatment or salvation than for their possessions if any.

Henry VIII of England in the writ, de idiota inquirendo, arranged that the property of those found to be incompetent through insanity or retardation would be his to grant to any subject requesting custody of the individual. To apply for the guardianship of a person, one had to "beg him for a fool."[33] And if guardianship was established, the individual became chattel to be disposed of as suited his guardian.

Administrative provision for the mentally retarded began within the Renaissance. The jurisdiction of the king concerned feudal rights relating to property more than to the welfare of the individual.

In 1601, the Elizabethan Poor Law began to separate the poor and afflicted from society. "Workhouses were set up..." into which were placed:

> the destitute, the unemployed or unemployable and paupers. This step began the process of segregating social misfits, which has continued until the present day.[34]

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[32]J. Clausen, "Mental Deficiency - Development of a Concept," American Journal of Mental Deficiency, 71 (1967), p. 727.

[33]Welsford, Fool, p. 160.

[34]Ann M. Clarke and A.D.B. Clarke, Mental Deficiency (London: Methuen and Company Limited, 1958), pp. 8-9.

The treatment and theories concerning mental retardation were most similar to those of the Medieval period. Within the sixteenth and seventeenth centuries, little was done in the fields of scientific endeavor concerning the mentally retarded.

The greatest change apparent between treatment of the mentally deficient in the Renaissance as opposed to the Medieval period is that mental retardation was less socially approved.

The rich possessed their conversation pieces, but parents did not deliberately deform or maim their children in order to sell them. Mental retardation was becoming more a curse and less a social asset. The major reason for the change in attitude was the discovery by the clerics of witchcraft.

During the Renaissance, witchcraft was a major social ill and concern. Many of the accused witches were "poore" women about whom some doubt as to their mental normality was indicated. Many were "poore and simple" people who lived doing miscellaneous work about the town in order to survive.[35]

There was, however, one major trend which had a direct effect upon the treatment of the mentally retarded. The area of education was undergoing gradual change which led to the

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[35]Wallace Notestein, A History of Witchcraft in England from 1558 to 1718 (New York: Russel and Russel, 1965), p. 40 et passim.

foundation of specialized institutions for the mentally defective and training and educational programs which are in effect today.

2.4 The Educational Renaissance

Melanchthon, a leader in educational reform in Germany (approximately 1519) urged the use of flogging in the school for those "pupils...impervious both to praise and to blame, and never show a spark of eagerness to excel. Such intellectual temper begets the moral faults which are akin to it..."[36] The reluctant student, the one who would not learn in spite of all attempts by the master, became an area of concern.

Prior to the Renaissance, the classical school system as established by the Greeks was in effect. The primary focus of the school was to function for society rather than for the student. The Greek school emphasized training and physical culture.[37] The Medieval school of the rich emphasized piety and religious training. The Renaissance school began to emphasize training of the student to the fullest of his capacities.

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[36]William Harrison Woodward, Studies in Education During the Age of the Renaissance 1400-1600 (Cambridge: University Press, 1924), p. 218.

[37]Thomas Davidson, The Education of the Greek People (New York: D. Appleton and Company, 1906), p. 66.

Francis Bacon (1561-1626) in his opus, Advancement of Learning, proposed a "sense-realistic" approach to education. The education of the senses of the individual in order that experience and observation would lead him to better understanding and communication with nature, was the basic premise of his paper.[38]

In Bacon, the seeds for educational reform were sown. He advocated the revision of form and substance of education, as well as methods of teaching.

Bacon's greatest contribution was his implication that education was for all people. He believed that the power of education could improve all men. He provided educators and scientists with a challenge to work with the mentally retarded. Although it is a laconic issue, it is present:

> But certain it is, whether it be believed or not, that as the most excellent of metals, gold, is of all other the most pliant and most enduring to be wrought; so of all living and breathing substances, the perfectest (Man) is the most susceptible of help, improvement, impression, and alteration. And not only in his body, but in his mind and spirit. And there again, not only in his appetite and affection, but in his power of wit and reason.[39]

Bacon advocated realism. His ideas, accepted by many, were exaggerated, applied, and perfected. The Church aided the

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[38] S. S. Laurie, Studies in the History of Educational Opinion from the Renaissance (Cambridge: University Press, 1905), p. 121.

[39] Ibid., p. 131.

educational reform movement through its declarations of "free will" and that one can make of man what one pleases.

The enthusiasm of the realistic cult of education led to the foundation of methods of teaching and training which were first used with the mentally retarded in the nineteenth century, when the first attempts to create a special curriculum for the mentally retarded were formed.

With the sense-realistic educational reform movement, John Locke (1632-1704) furthered the ideas of education as a means of correcting the faults of man.

Locke's essays, "Some Thoughts Concerning Education" and "Of the Conduct of the Understanding" emphasized the need for individual experience.[40] The impact of the two essays was outstanding at the time they were written.

Locke presented the conception of the student as the concern of the educator, which negated the priority held, deeply rooted tradition which Melanchthon also protested against.

Locke created the foundation for special education or individualization of educational procedures with his advocation of the application of medical principles to the learning process. He proposed that all mental development and all education be dependent upon sensation.

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[40] Laurie, Educational Opinion, p. 208.

Locke also provided a distinction between idiocy and insanity in his statement:

> Herein seems to lie the difference between idiots and madmen, that madmen put wrong ideas together and reason from them, but idiots make very few or no propositions and reason scarce at all.[41]

This seems to be the first delineation of mental retardation from insanity.

2.5 Other Trends

In view of the theories regarding mental retardation which were to affect the treatment of the mentally defective in the future, the Renaissance produced another trend which was influential.

In 1543, it was first brought to public attention by the Catholic Convocation that "ungodly solemisation of marriages" were taking place in Bedlam.[42] The major objection of the church was that the same were marrying within the confines of the institution. The church did, however, protest that marriages upon the grounds might encourage the unfit to marry and live within the hospital. This was, perhaps, the first declaration of what later became the eugenics movement.

Another trend which took place during the Renaissance was that begun by Felix Platter (also known as Plater or

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[41] J. E. Nowry, "A Brief Synopsis of Mental Deficiency" American Journal of Mental Deficiency 49 (1945), p. 319.

[42] Hyslop, Abnormals, p. 154.

Platerus). Platter was a Swiss physician who first wrote the recognition, prognosis, prophylaxis, and treatment of disorders which incapacitate man, in which he included a section on the mentally retarded. Platter (1536-1614) appears to be the first physician who was concerned with the causes of mental retardation.[43]

2.6 The Eighteenth Century

The eighteenth century is characterized by change within the attitude of scientists and educators concerning mental retardation. Many of the practices which were used within the Medieval and Renaissance periods were still applied to the mentally defective. However, more public institutions for the care and maintenance of the retarded were being opened, although the insane, the destitute, and the social misfit were also housed with the mentally defective.

Etienne Bonnot de Condillac furthered the principles of education as expounded by John Locke into the eighteenth century. Condillac, in the latter half of his career, encouraged the training of the senses although he felt that it was not as necessary as Locke had proposed.

Condillac theorized:

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[43] Paul Cranfield, "Little Known English Versions of the Praxis and Observations of Felix Platter" Journal of History of Medicine and Allied Sciences 17 (2) (1962), p. 309.

> ...'the faculties of the understanding are the same in a child as in a grown-up man.' The main difference between man and child is in the extent of their experience and knowledge. Consequently there is no truth of any kind which is beyond the child's comprehension, if only he is led up to it by proper gradations.[44]

Condillac's influence upon educational circles within the eighteenth century was profound, although some may have been based upon the fact that he was the tutor to Louis XV's grandson, Prince Parma. Condillac's observations regarding the gradation of educational proficiency was a basis for the educational technique of Jacob Pereira, an individual who had direct influence upon the training and education of the mentally and physically defective.

Jacob Pereira (1715-1780) became interested in discovering a means of making deaf-mutes talk. His work in this area won him a membership in the Royal Society in London and an appointment to the Academy of Sciences in Paris.

Pereira invented a Dactylogie, a system of forty signs requiring only the use of one hand. However, due to the fact that the Abbe de l'Epee received credit for the system, he then developed an oral method which he refused to make public; it was, therefore, lost with his death.

To gain contact with his patients, Pereira used an alphabet devised by Bonet and his own system of syllabic signs. Wher

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[44] William Boyd, From Locke to Montessori (London: George G. Harrap and Company, 1914), p. 33.

an understanding was reached, he proceeded to teach speech by a method of lip reading. Pereira stated his problem as:

> Give a deaf-mute, to make him understand speech and to teach it to him through vision, so that (1) he will watch people speaking and see by the movements of articulation what they are expressing by the voice; (2) he himself will articulate his thought as he sees other people doing it; (3) and consequently, though he remains deaf, he will not be wholly without the faculty of speech, but will see the words he does not hear and find himself on an equal footing with speaking and thinking humanity.[45]

The importance of Pereira's work to the field of special education is vast. Pereira demonstrated to the physiologist of his day that all senses were modifications of the sense of touch.

Rousseau, through his contact with and personal friendship with Pereira, introduced the concept of the training of the tactile sense in the education of normal children. Rousseau proposed that all senses be trained as rigorously as the sense of touch when teaching the deaf-mute to speak, in order that the normal child be able to develop his senses as fully as possible.

Pereira focused his training of the tactile senses in the reproduction of vibrations to create speech. Rousseau proposed training for total educational effect.

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[45]Boyd, Montessori, pp. 38-9.

Rousseau (1712-1778) expounded upon the theory of human nature being incarnate within each individual, and proposed a biological system of education: mental development of man is manifest in his relationships with the world around him; thus, basic dispositions, impulses, characteristics, and intellect become manifest through continual contact with nature.

It is through the education of deaf-mutes that attempts to educate the mentally retarded occurred. The Institution for Deaf-Mutes in Paris acted as a clearinghouse for the disposition of many types of defectives. Jean Itard (1775-1838), a physician at the Institute, was founder of the movement.

Itard took special interest in the case of the Savage of Aveyron, a boy of eleven or twelve who had been captured in the forest. His interest, with the curiosity of many scientists and philosophers, gained him the opportunity to attempt to train the "savage."

The basic interest held in the case was that of finding the natural man. Dr. Pinel, an authority on insanity, diagnosed the boy as being not a "natural" creature, but an incurable idiot.

Pinel based his diagnosis upon the fact:

> the boy was inferior to the domestic animals... Apart from the objects of physical need, he was totally unable to pay attention to anything,

> and consequently was devoid of memory, judgement, and the aptitude for imitation.[46]

Itard based his educational program on the principles of two English doctors, Willis and Crichton who had succeeded in using some forms of extended medical treatment with special types of mental defect, and began an educational program for the "savage."

Although the experiment did not result in total success:

> comparative success revealed the possibility of education of idiots by a system of medical pedagogy, and led to a beneficent reform in the treatment of those unfortunate beings.[47]

At the time of the experiment, Pinel and other leading medical authorities believed that the "idiot" could not be cured or educated. The experiment demonstrated, however, that idiocy could not be proved until the educational process had been completely halted, and no further means could aid the individual to attain or retain a higher level of information.[48]

Unfortunately, many of the historical and medical records of this time were lost due to the numerous revolutions which were occurring within the various countries. However, scientific interest in the mentally retarded was growing. Sir G. O. Peele in his report to the Home Secretary begged for new institutions to care for the helpless:

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[46]Boyd, Montessori, p. 66.

[47]Ibid., p. 81.

[48]Robert John Fynne, Montessori and Her Inspirers (London: Longmans, Green and Company, 1924), p. 109.

> there was hardly a parish without some unfortunate creature who was either chained in a cellar or garret of a workhouse, fastened to the leg of a table, tied to a post in an outhouse, or shut up in an uninhabited ruin; or he would be left to ramble half-naked or starved through the streets or highways, teased by the scoff and jest of all that is vulgar, ignorant, and unfeeling.[49]

Within the eighteenth century, awareness of the need for treatment of the mentally retarded was becoming apparent. Yet, it was not until the nineteenth century that concerted action took place.

2.7 Nineteenth Century to Present

The nineteenth century was a period of optimism in regard to the area of mental retardation. This was a humanitarian age. It was believed that feeblemindedness could be cured, and by the latter part of the nineteenth century, the quality and standards of care and training provided was superior to that of many schools today.[50]

It was not until the beginning of this era that the first definite medical and educational approaches of a scientific nature were made regarding mental deficiency.[51] The educational reforms of the 1700's produced much of the impetus

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[49] Hyslop, Abnormals, p. 164.

[50] Clark, Synopsis, p. 2.

[51] Davies, Mentally Retarded in Society, p. 10.

for the cause of mental retardation. It was through the study of Itard and the "wild boy" that it was realized that it was possible to treat the mentally retarded through a system of medical pedagogy.[52] It was through the study of Itard's work that Edouard Seguin, the "Apostle of the Idiots," began to work with the feebleminded.

Seguin was greatly influenced by the significance of the results which Itard had obtained, and it was through the physiological method that Seguin thought he saw the secret of treatment and cure. He was also greatly influenced by Saint-Simonism.[53] This was a philosophic approach to life, which instructed the follower to aid in the reconstruction of society on the lines of socialism, with dictates to urge the disciple to give creative effect to his ideals of life. One was to find a practical outlet in social experiments, especially in the converting of human nature within the basest and most degraded.

Seguin's interest in the feebleminded was compounded by his having studied medicine and surgery under Itard and also having been a pupil of the psychiatrist Esquirol.

Esquirol, in 1828, had formulated the first clear definition of what was then called "idiocy":

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[52] Boyd, Locke to Montessori, p. 81.

[53] Ibid.

> Idiocy is not a disease but a condition in which the intellectual faculties are never manifested or have never been developed sufficiently to enable the idiot to acquire such an amount of knowledge as persons his own age, and placed in similar circumstances with himself are capable of receiving. Idiocy commences with life or at that age which precedes the development of the intellectual and affective faculties, which are from the first what they are doomed to be during the whole period of existence.[54]

Upon finishing his medical training, Seguin accepted the directorship of the school for idiots at the Bicetre. However, he resigned this position to establish his own school for the training and education of idiot children. His plans for education of the defective were declared useless by most experts within the field, and even his partner and former teacher, Esquirol, stated:

> Idiots are what they must remain for the rest of their life. Everything in them betrays an organization imperfect or arrested in its development... No means are known by which a larger amount of reason or intelligence can be bestowed upon the unhappy idiot, even for the briefest period.[55]

Seguin's mission was "the removal of the mark of the beast from the forehead of the idiot."[56] Seguin's training program was:

> The general training embraces the muscular, imitative, nervous, and reflective functions, susceptible of being called into play at any moment. All that pertains to movement, as locomotion and special motions, prehension, manipulation, and

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[54] Davies, Mentally Retarded in Society, p. 16.

[55] Boyd, Locke to Montessori, p. 91.

[56] Davies, Social Control, p. 28.

> palpitation, by dint of strength, or exquisite delicacy, imitation and communication from mind to mind, through languages, signs, and symbols, all that is to be treated thoroughly. Then, from imitation is derived drawing; from drawing, writing; from writing, reading; which implies the most extended use of the voice in speaking, music, etc...Let our natural senses be developed as far as possible, and we are not near the limits of their capacity. Then the instruments or artificial senses are to be brought in requisition; the handling of the compass, the prism, the most philosophical of them the microscope and others must be made familiar to all children, who shall learn how to see nature through itself, instead of through twenty-six letters of the alphabet; and shall cease to learn by rote, by trust, by faith, instead of knowing.[57]

The training program was subject to the individual needs and deficiencies of the student; was first to overcome the muscular incapacities, then to develop the various muscles in order that muscular movement might be improved. It was designed to work also upon the nerve functions within the individual and to provide not muscular strength alone, but an equilibrium within the body. As far as possible, exercises common to the play of children were modified and utilized, such as the use of spades, wheelbarrows, watering pots, bows, wooden horses, hammers, and balls. Such natural activities were to be preferred over more formal gymnastics.

The steps within the training program were to first train the child to voluntary or controlled immobility. This was taught because Seguin felt that from positive immobility all actions

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[57]Davies, Social Control, p. 30.

come forth.[58] Immobility was taught in various postures, as standing, sitting, reclining, and according to the particular condition of the child.

Upon mastering controlled immobility, the child was given training in walking. Baby-jumpers, spring boards, wooden blocks, treadmills, and other elaborate exercises were used to teach the defective to walk properly. Stairs and following painted footprints on the floor were also used to accustom the child to coordinated action.

The children were encouraged to practice through the use of music and laughter. All work was done individually. As soon as the child was able to advance, and felt secure, he was placed in a group situation.

Tactile and sensory education were handled in the same way. Innovations in the approach to objects were presented to the defective. He was allowed to taste, feel, see, and hear as much as possible. The use of multiple stimuli and varied responses were implemented. Again, all work was done on an individual basis, with the child joining a group only after he had conquered essentials and was secure in his basic knowledge.

Summing his physiological approach, Seguin stated:

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[58]Davies, Social Control, p. 31.

> Children are our witnesses; unlike animals, they never perceive single, but compound phenomena; from sensational these become instantly idealized by comparison. Mere impressions, being compared, become ideas susceptible of combination, and of themselves producing any number of new ideas; of becoming indeed the mother of actions: for man cannot execute anything that has not been previously born into his mind. Sensation perceived like a notion, notion fecundated to an idea realized in life itself, such is the unbroken spiral of our teaching, and through teaching, of our action on idiocy. From collecting the sparse powers of muscles and nerves disconnected by the absense of will, to the gathering of the faculties in the act of thinking, our progress has been a constant ascension on the steps leading from isolation to sociability.[59]

Seguin's method of teaching the mentally deficient won wide recognition. Encouraged by his success, Seguin established the first school for training and education of the mentally retarded in 1839. After endorsement of the school by the Paris Academy of Science, visitors from many parts of the world came to study techniques declared to be the solution to "the problem of idiot education."[60]

Within eighteen months, Seguin could teach an idiot to make use of his senses, to care for himself, to speak, to write, and to count, as well as to remember and compare.[61]

Seguin's efforts and successes furnished the impetus to organize efforts on behalf of the feebleminded in practically

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[59] Davies, Social Control, p. 34.

[60] Ibid., pp. 34-5.

[61] Fynne, Montessori, p. 132.

all European countries and America. His writing, with those of Dr. Guggenbuhal, who conducted a school for cretins in Switzerland, and Dr. Saegert, who conducted a school for deaf-mutes in Berlin, led to establishing organization of treatment programs. England was the first country to recognize the potentials for treatment, and Park House was established in 1840 by philanthropist Andrew Reed.

Care in America. In America, many states had already organized progressive institutions for the care, training, and treatment of the blind, deaf-mutes, and insane, but the feebleminded nad been almost totally ignored and neglected. The only means of provision for those whose families could not care for them was the almshouse or the jail.[62] More noticeable attempts to educate the mentally defective had taken place within the institutions for the blind and deaf. Such experiments had met with some success.[63] In 1939, Dr. Samuel G. Howe, director of the Perkins Institute for the Blind in Boston, undertook to include the education of the feebleminded within his institution with moderate accomplishments.

In 1844, the American Asylum at Hartford, Connecticut admitted for instruction a deaf idiot, who was taught with some success by methods used with other deaf children.

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[62]Davies, Social Control, p. 35.

[63]Davies, Mentally Retarded in Society, p. 20.

In 1842, Horace Mann and George Sumner visited Bicetre and observed Seguin's work. Sumner published an extended account of workings of the school in Chambers' Journal, where it came to the attention of Dr. Hervey B. Wilbur of Massachusetts. Dr. Wilbur, upon corresponding with and receiving Seguin's books, opened his home in Barre, Massachusetts, for the education of idiots. Thus, in July, 1848, the first school devoted to the care, education, and training of the feebleminded in America was established.

The first official steps to be taken in the direction of special state provisions for the retarded were made in New York in 1846 when Dr. E. P. Backus introduced a bill providing for the establishment of a state asylum for idiots. The bill was defeated. However, within the same year, the Massachusetts legislature directed an inquiry into the "conditions of idiots in the Common-wealth." As an outcome of the inquiry, on October 1, 1848, the State of Massachusetts opened the first experimental school for the teaching of idiots. This was the first state institution for the mentally defective to be established in America.[64] Dr. Samuel G. Howe was made superintendent.

In New York, the proposed legislation of 1846 was finally enacted in 1851. A state school was opened at Albany, with Dr. Hervey B. Wilbur as its first superintendent. In 1854,

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[64]Davies, Mentally Retarded in Society, p. 21.

the school was transferred to Syracuse, where the first building expressly designed and planned for the mentally retarded was erected.[65]

In 1852, a private school for the mentally defective was established in Germantown, Pennsylvania. In 1854, the State began its policy of partial support for this institution, which was later moved to Philadelphia and then to Elwyn.

In 1857, Ohio opened an institution in Columbus. Connecticut followed in 1858 with a private but state aided institution at Lakeville which was later closed due to the opening of a state school at Mansfield.

By 1890, fourteen states were maintaining separate state institutions for mental defectives; in 1904 the number had increased to twenty-one states; in 1910 to twenty-six; in 1923 there were forty; and by 1958, only one state was without an institution for the retarded.[66]

The first public special education class was conducted in Providence in 1896, adding a further method of treatment for the mentally retarded. The great hopes of cure and treatment for the mentally retarded encouraged the establishment of special education classes within public schools and institutions. However, such hopes were not to be sustained for long.

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[65] Ibid.

[66] Ibid., p. 22.

Treatment. Early schools for the retarded were organized on the premise that mental defectives would and could be cured, or that the basic effects of retardation could at least be overcome. The schools were basically educational institutions, as the goal was the use of the physiological method to improve the condition of the patient in order that he might return to the community, capable of self-guidance and of earning an independent livelihood. Treatment innovations were experimented with and flourished. Almost every phase of living and life was viewed as a means of "curing" the defective. Experimentation was encouraged by the tide of hopefullness during this era.

Moral treatment of the idiot was a primary concern. Moral treatment in its simplest definition was "any treatment that was not physical."[67] The concept of moral treatment was taken from the programs for the care of the insane. Burrows, while affirming that "madness is one of the curses imposed by the wrath of the Almighty on his people for their sins..."[68] recognized the fact the ill deserved to be treated with kindness and respect, dignity, and an attentive ear. The specific practices of the various 19th century practitioners of moral treatment included any or all of the following: providing constant activity of a physical and creative nature;

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[67]Thomas E. Jordan, ed., Perspectives in Mental Retardation (Illinois: Southern Illinois University Press, 1966), p. 15.

[68]Jordan, Perspectives, p. 15.

encouraging reading of carefully selected books; furnishing selective forms of recreational and amusing activities; guaranteeing proper diet and good hygienic conditions; calm religious devotions; discussions with physicians; careful selection of the staff and the training of the staff of the institutions; avoiding the use of physical restraints at all time; and providing an atmosphere of patience and kindliness for the residents.[69]

Morel, Leuret, Rousseau, Pestalozzi, and Seguin all encouraged the reflection of love within the treatment of "unfortunates." This is perhaps the greatest innovation in the treatment of the mentally retarded which occurred within the nineteenth century. The power of love became one of the basic elements of the treatment program. "To make the child feel that he is loved, and to make him eager to love in his turn"[70] was one of the essentials of Seguin's program of therapy; moreover, he added "not only the parent or the teacher must learn to love the idiot - it goes without saying that the physician above all must be capable of expressing this love..."[71] and he continued by stating "that all who come into contact with the children in an institutional setting - nurses, cooks, attendants, laborers - must be genuinely dedicated people, courageous, and unfaltering..."[72]

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[69] Ibid.

[70] Ibid., p. 16.

[71] Ibid., p. 17.

[72] Ibid.

The spirit of love, and the eagerness on the part of the child to love was the major step in the socialization process of the mentally retarded. Love could not lead to isolation. To prevent such, it was recommended that children be allowed and encouraged to go to museums, churches, theaters, and shows, and that they be guided to join others in the use of toys and games.

The use of moral treatment programs led to the abolishment of corporal punishment as a means of controlling the defective child. Although the use of any force is unpleasant, it was acknowledged as sometimes necessary.

> Coercion is painful, but less so than the shower bath, cold affusion, straight jacket, etc. Imperative command is painful, but not in the same manner as underhand and fruitless brutalities of servants and keepers, doleful lot of uneducated idiots.[73]

It was also acknowledged that too strict discipline and regimentation could undo all the good of moral treatment:

> ...sympathetic feelings themselves, like the sensitive mimosa, grow only where there is no compression. The more strictly disciplined - officially speaking - the school, the less sympathy among the children, in the children toward the world, in the world toward these children of its follies, vices, and crimes.[74]

Respect for the freedom of the child, variety of activities, frequent changes of setting and purpose, relief from monotony,

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[73] Ibid.

[74] Jordan, Perspectives, p. 17.

and failure to command impossible tasks were to be used more to encourage the child and to keep coercion and struggles of the will at a minimum.

Within the institutions, various educational programs were made available to the patients. Children participated in: reading; counting; sewing handiwork; embroidery; sewing with a machine; weaving; marching and athletic drill; copying, drawing, painting, coloring, and modeling with clay; music; playing musical instruments; wood carving; building; upholstering; basketry; writing stories; acting and entertaining others; gardening; cooking; and institutional chores as carrying wood, filling kettles, washing and folding laundry, waiting tables, making beds, and cleaning; religious instructions; and free play.[75] Many of the institutions had cottage type dormitories which allowed the residents to retain a feeling of belonging to a family, and substantiated the concept of respect of the child and his rights to privacy and freedom.

Other methods of treatment were also practiced within this era. The use of types of shock therapy for the mentally retarded was attempted, and was for a brief period believed to be a "cure." Shock therapy had been used with the insane for many years, being an ancient practice to drive out evil

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[75]Henry Herbert Goddard, The Kallikak Family: A Study in the Heredity of Feeble-Mindedness (New York: The Macmillan Company, 1925), et passim.

spirits through severe shock.[76] The use of shock therapy was intended to raise the individual's intellectual potential; however, it was found to be of no effect other than alleviating some severe behavior reactions.

The use of every type of drug known at the time, special diets, and complex neurological surgery were attempted to "cure" mental retardation. The use of surgery to remove infected teeth, tonsils, or colon was found to be most effective with retardates in the "functional class," an obscure category of individuals whose brains were normal but who were not responding normally.[77]

Social Context. Mental retardation was not the great social issue within the nineteenth century it might have been. Instead, it was subordinate to other issues. Hofstadter stated:

> In our political life there have always been certain types of cultural issues, questions of fate and morals, tone and style, freedom and coercion, which become fighting issues...[78]

However, mental retardation was not a fighting issue. Mental retardation became part of many issues, from prohibition, to racial equality. Mental deficiency as a form of degeneracy seems to have dominated the nineteenth century treatment of the deficient.

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[76]Max L. Hutt and Robert G. Gibby, The Mentally Retarded Child (Boston: Allyn and Bacon, Inc., 1958), p. 290.

[77]Henry A. Cotton, The Defective Delinquent and Insane (Princton University Press, 1921), p. 167.

[78]Farber, Mental Retardation, p. 124.

Benedict Morel, in a book published in 1857, two years before Darwin's Origin of the Species, concluded that mental retardation, mental disease, and insanity were all related. Such disorders were hereditary and he hypothesized that they would become increasingly profound with each new generation.[79] Darwin's work, which followed, seemed to have led to the conclusion that individuals living under poor conditions (socially) were already degenerate and unfit members of the human race. This was believed to be true, for the causes of degeneracy were diseases, social environment, and alcoholism (Tregold and others concluded that excessive alcohol use degenerated germ plasm).[80]

Investigators also sought evidence of degeneracy in racial groups. The U.S. Census report and other vital statistics lent themselves to interpretation that the protective environment of slavery prevented the constitution of Negroes from manifesting itself in insanity and idiocy.[81]

Changing Attitude. About 1900, a period of pessimism and public concern regarding mental retardation developed which lasted a period of three decades.[82] The hopes of cure for the defective had not been fully realized, and the institutions became overcrowded with the "failures" of prior

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[79] Ibid., p. 27.

[80] Farber, Mental Retardation, p. 124.

[81] Ibid., p. 27.

[82] Clark, Synopsis, p. 2.

programs. Gradually it had become apparent that the severely retarded were not curable, nor capable of achieving great improvement.

Two factors had the greatest influence over the change in attitude toward the mentally retarded during this period. These were: the development and application of the Binet-Simon intelligence test method; and the development of the eugenics movement, coupled with the rediscovery of the Mendelian laws of heredity, and the resulting studies.[83]

Within the United States, the Binet test was adopted and was soon showing that the number of extremely dull persons was greater than had been thought. At the same time the populations of the jails, workhouses, and poor relief rolls were tested and found to be within this category. Family histories seemed to indicate that degeneracy was transmitted as a unitary trait, through the parents to the children, and the more degenerate the parents, the more the children.

The "menace of mental retardation" became the social belief. "The burden of feeble-mindedness - the synonym of human inefficiency and one of the great sources of human wretchedness and degradation" was the popular topic for discussions, especially at prohibition meetings.[84] Mental retardation

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[83]Clarke and Clarke, Deficiency, p. 10.

[84]Clarke and Clarke, p. 10.

was the "causative factor in the production of crime, prostitution, pauperism, illegitimacy, intemperance, and other complex social diseases."[85] Others summed the situation by stating: "...data here reveal that illegitimacy, attempted murder, theft, forgery, arson, prostitution, drunkenness, destitution, and disease are salient features of social careers of these incompetents."[86]

The panic reached its height in the years prior to the First World War. It was only later realized as a result of more careful sociological and psychological analysis that the arguments of the earlier years rested on false premises. Before progress could be made in correction of faulty attitudes and providing services for defectives based upon their needs, the economic depression of the 1930's intervened, followed by the Second World War and its aftermath.

More tolerant views were fostered, however, by the findings of researchers in the 1930's. When the intelligence was restandardized during World War I, it was found that the intelligence of criminals did not differ significantly from that of the general population. Also, the labor shortage of World War II brought about the increased awareness of the capacities of the mentally retarded to be trained to become workers.[87] It has been, however, only within the past few

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[85] Ibid.

[86] Ibid.

[87] Clark, Synopsis, p. 3.

years that conditions have become favorable to providing services for the real, social and personal needs of the mentally deficient.

Intelligence Testing. Intelligence testing became one of the factors which led to the change in attitude of society toward the mentally retarded early in the twentieth century. Dr. Alfred Binet and Dr. Th. Simon originated the method of measuring intelligence and devised the first scale by which to do so.

Binet was appointed by the Minister of Public Instruction of Paris to devise a way of examining and grading children. The reason was that the Ministry was seeking some means of enforcing a commission ruling that no child suspected of mental deficiency should be removed from the regular school to a special class without certification of the state of his intelligence being such that he was unable to benefit from regular academic instruction. However, at the time, there was no way of determining standards for who should make the examination, how the examination should be made, what methods should be followed, what observations should be taken, and how the child should be compared with his peers. Binet was to clarify this situation. Through his work, he became associated with Dr. Simon.

It was first decided that much of the confusion within the issue was due to a lack of uniformity of terms. Classification and diagnosis followed, for even physicians who used the

same terminology would differ in these areas. Too many times, the classification and diagnosis of a child was based upon a subjective impression.

Binet attempted to measure intelligence through a differentiation between natural intelligence and instruction. Therefore, in devising his tests, the most advanced in the series which the large majority of normal children could answer satisfactorily, was regarded as an indication of the normal mental level of the chronological group.

The test was published in 1905, but it was in 1908 that interest in the test was shown in America. Dr. Henry H. Goddard of the Vineland Institute became the leading authority concerning the testing of deficients due to his study of the residents of his institution.

Through the use of intelligence tests, the general population was alarmed at the findings of various studies. Goddard, in his testing of large numbers of individuals in order to refine the Binet test, found large numbers of persons of borderline intelligence who had before been unrecognized. The moron was an alarming discovery. Surveys indicated that thousands of such individuals were among the general population, and there existed practically no facilities for their social control.

The number of mentally retarded individuals, as revealed by testing various populations, led to the growing concern that the mentally deficient were a menace to society. Goddard and others aided in fostering the conception of the dangers of mental retardation through studies of delinquent and criminal individuals. However, with the publication of the intelligence test results of World War I inductees, it was demonstrated that individuals with low test scores could live within society as useful citizens.

However, concern over the relation of intelligence and criminality continued. A "reading of about two hundred studies from the last twenty years...shows...marked disagreement."[88] The number of individuals adding to the confusion revolving about intelligence include: Goddard,[89] Hill,[90] Morrow,[91] Bridgeman,[92] Rowland,[93] Enyon,[94] Williams,[95] Glueck,[96]

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[88]L.D. Zeleny, "Feeble-mindedness and Criminal Conduct," American Journal of Sociology, Vol. 38 (1933), p. 564.

[89]Goddard and Helen Hill, "Delinquent Girls Tested by the Binet Scale," Training School Bulletin, IX (1911),pp.50-56.

[90]Ibid.

[91]Louise Morrow and Olga Bridgeman, "Delinquent Girls Tested by the Binet Scale," Training School Bulletin, IX (1912), pp. 33-36.

[92]Ibid.

[93]Elanor Rowland, "Report of Experiments at the State Reformatory for Women," Psychological Review, (1913).

[94]W.A. Enyon, "Mental Measurement of Four Hundred Juvenile Delinquents by the Binet Simon System," New York Medical Journal, XCVII, (1913), pp. 175-178.

[95]J.H. Williams, The Intelligence of the Delinquent Boy (California: Whittier State School, 1916).

[96]Bernard Glueck, "Concerning Prisoners," Mental Hygiene II (1918), pp. 178-218.

Haines,[97] Knollin,[98] Herrick,[99] Anderson,[100] Kelley,[101], Hickman,[102] Pyle,[103] Gregory,[104] Kuhlmann,[105] Root,[106], Erickson,[107] and others.

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[97]Thomas Haines, "Feeble-mindedness Among Adult Delinquents," Journal of Criminal Law and Criminology, VII (1917), pp. 700-721.

[98]H.E. Knollin and L.W. Terman, A Partial Psychological Survey of the Prison Population of San Quentin, California, "Surveys in Mental Deviation," (California: State Printing Office, 1918).

[99]Jessie Herrick, Report of the Mental Examination of 194 Inmates of the Western Home of Refuge for Women, at Albany, New York, No. 10 (New York: State Board of Charities, 1917).

[100]V.V. Anderson, "Mental Defect in a Southern State," Mental Hygiene, III (1919), no page.

[101]T.L. Kelley, "The Mental Aspect of Delinquency," University of Texas Bulletin, No. 1713, (1917).

[102]H.B. Hickman, "The Defective Delinquent," Training School Bulletin, XIV (1917), pp. 9-11.

[103]W.H. Pyle, "A Study of Delinquent Girls," Psychological Clinic, VIII (1917), no page.

[104]C.A. Gregory, Public Health Bulletin, No. 112, University of Oregon,(1920).

[105]Frederick Kuhlmann, Report of the Director, Division of Research, Minnesota State Board of Control,(1926).

[106]W.T. Root, Psychological and Educational Survey of 1916. Prisoners in the Western Penitentiary of Pennsylvania, 1927.

[107]M.H. Erickson, "A Study of the Relationship Between Intelligence and Crime," Journal of Criminal Law and Criminology, XIX (1929), pp. 592-625.

Difficulties which aided in creating the confusion were the selection of samples, interpretation of terms and mental level scores, variabilities within age and sex of the samples, and the fact that "educational standards show a good deal of secular variation, so that at some epochs children on a national basis, are better educated than at others."[108]

Eugenics Movement. Before 1930 there were numerous elite groups interested in the problems of mental retardation and the needs which arose from the area. Some of these groups were connected with the eugenics movement.

As early as 1865, Sir Francis Galton put forward the idea that systematic efforts should be made to improve the human breed by checking the birth rate of the unfit.[109] He coined the term "eugenics" meaning "well bred" and defined it as "the science which deals with all influences that improve the inborn qualities of a race."[110]

The modern eugenics movement is regarded as beginning in 1901 with the publication of Galton's essay "Possible Improvement

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[108] John Cowie, Valerie Cowie, Eliot Slater, Delinquency in Girls (London: Humanities Press, 1968), p. 81.

[109] Davies, Social Control, p. 59.

[110] Ibid.

of the Human Breed." Preceding the publication of Galton's article, DeVries, Correns, and other botantists revived and verified the Mendelian laws of heredity.

Heredity as an etiological factor in mental retardation had been recognized by researchers in a general way. The mode of transmitting the defect was not understood. Seguin had pointed out:

> the circumstances which favor the production of idiocy are endemic, hereditary, parental, or accidental...It is considered hereditary where there have been cases of idiocy or of insanity in the preceding or collateral generations...[111]

With the revived interest in the question of transmissability of mental defect, the eugenics movement gained prominence and momentum.

Robert L. Dugdale's study of the Jukes family was republished by Franklin H. Giddings. Estabrook attempted to verify the study. O. C. McCullough published a similar study, "The Tribe of Ishmael." Dr. Henry H. Goddard presented his study of the hereditary factors before the American Breeders Association in 1910. All such reports added to the growing field, and to the assumption that heredity was the prime factor in degenerate and deficient individuals.

Davenport, Tredgold, Lapage, Dendy, Stoddard, Wallin, Estabrook, Heron, Laughlin, and The British Royal Commission of 1904 substantiated the theory of heredity.

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[111] Ibid., p. 60.

Stoddard in "The Nemesis of the Inferior" cited:

> Feeblemindedness is a condition characterized by such traits as dull intelligence, low moral sense, lack of self-control, shiftlessness, improvidence, etc. It is highly hereditary, and unfortunately it is frequently associated with great physical strength and vitality, so that feebleminded persons usually breed rapidly, with no regard for consequences. In former times the numbers of the feebleminded were kept down by the stern processes of natural selection, but modern charity and philantropy have protected them and have thus favored their rapid multiplication. The feebleminded are becoming an increasingly serious problem in every civilized country today.[112]

Tredgold further warned of the problem of mental retardation and future menace in 1910 when he wrote:

> It is quite clear, therefore, that the number of children born of feebleminded women throughout the country must be very considerable, and when we remember how strongly hereditary this condition is, and how exceedingly probable it is that these children will grow up, if not actually mentally defective, at any rate, paupers, prostitutes, criminals, or ne'er-do-wells, we see how serious must be the consequences of this propagation upon the future of the nation...As is well-known, the birth rate of the country is steadily declining; but unfortunately the selection is in the wrong direction. There is not the slightest doubt that the decline is chiefly incident in - indeed, one may say practically confined to - the best and most fit elements of the community, whilst, the loafers, the incompetent, the insane, and feebleminded, continue to breed with unabated and unrestricted vigor.[113]

With the revelations of the eugenics movement, the alarm of the "menace of mental retardation" was sounded. Mental defect became a social problem, a public and/or personal

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[112] Ibid., pp. 72-3.

[113] Ibid.

embarrassment and a national threat. Mental retardation was a key to the destruction of nations, to the annihilation of the human race, to the downfall of the world. Almost every social ill in existence could be linked to mental deficiency. Dr. Anne More, through the State Charities Aid Association, stated that those who were aware and those who had studied the situation must realize that "the feebleminded are a menace to our present-day civilization" and that care should be lifetime and certainly through the reproductive period.[114]

The eugenics movement led to the movement for sterilization of the defective. Some of the remedies suggested were lifetime segregation, segregation during the reproductive period, restrictive marriage laws and customs, eugenic education of the public and of prospective mates, systematic mating of individuals, general environmental betterment, polygamy, euthanasia, and sterilization.

Thus, the eugenics movement fostered programs of custodial care of the mentally retarded and an almost complete reduction of educational, vocational, and training programs which had existed within the institutions prior to this era.

Custodial Care. It had been hoped that with the curing of mental retardation, the pupils of state institutions could be returned to the community, even after years of training,

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[114]Davies, Social Control, p. 84.

to self-supporting roles. However, the improvement was not as great as had been originally anticipated. Moreover, there were other complications.

The states, in establishing such institutions, had anticipated only a special method of education through a controlled environment, and had not intended nor envisioned indefinite custodial care. However, many of the students who had completed the regular course of training were not fully prepared to return to the community. Many of the parents of retardates who had been selected for training created another problem. They did not want their children to come home. Due to the dependency of the student upon the routine of the school and the controlled environment, many parents requested that their children be allowed to remain within the sheltered environment of the institution. The communities added to the issue by requesting more and more new admissions, and the acceptance of cases of all ages and degrees of retardation.

The demands of members of the eugenics movement for segregation of the mentally retarded within sheltered environments in order to prevent the growing numbers of "dangerous" deficients compounded the problem. The states were faced with the idea of providing indefinite custodial care for growing numbers and types of cases.

Late in the nineteenth century, some states and institutions were provided for indefinite care. In 1870, New York City organized a hospital and school which received all types of cases. In 1878, an institution for subnormal women of child-bearing age was established in New York. In 1894, another institution was opened in New York to provide custodial care. With the advent of the great alarm fostered by the eugenics movement, the custodial aspect was uppermost in state institutional policy, and is still in effect.

Current Trends in Mental Retardation. After World War II, with the accompanying prosperity, and the medical advances which had been brought about, emphasis in the field of mental retardation shifted from the mildly retarded to the severely retarded and from problems of behavior (deviant and delinquent) to medical concerns. Consequently, the mental retardation movement became associated with agencies involved with health problems.

The shift in the attitude regarding mentally retarded individuals occurred basically within the 1950's.[115] Parents' organizations concerned with the severely retarded and the medical and custodial associated with such individuals produced the necessary impetus.

The era of prosperity following World War II reduced the competition in the labor market, and the mildly retarded individual was no longer a threat to the working and middle class in

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[115]Farber, Mental Retardation, p. 147.

terms of economics. Thus, the mildly deficient indivi[illegible] was becoming more accepted by society. The tolerant attitude was fostered by the restandardization of intelligence tests, which showed that criminal intelligence did not significantly differ from that of the general population. Also, studies concerned with escaped or released residents of various institutions helped to discredit the myth of the "menace of mental retardation." True progress began to be made with the establishment of parent groups and the organization of the American Association for Mental Deficiency.[116]

The 1950's ushered in another period of optimism for parents of the retarded. As the life span of the severely retarded was being lengthened, at the same time, the methods and means of care and custodial services were also being improved. The severely retarded child was not the social, economic, or medical burden it once had been. Action within the field shifted to the debilitating diseases (as rubella or encephalitis) which caused deficiency, and away from the transmission of stupidity as a family trait. Hobbs suggests that this era indicated:

> ...the concepts of public health have finally penetrated the field of mental health...(there is) growing recognition that mental illness (including mental retardation) is not the private organic misery of an individual but a social, ethical, and moral problem, a responsibility of the total community.[117]

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[116]Clark, Synopsis, p. 3.

[117]Farber, Mental Retardation, p. 127.

Preventive services and educational opportunities for parents became openly available. Medical services have been improved, which have accounted for the decline in obstetrical abnormalities and prematurity. Medical advancements have also been responsible for better prenatal and postnatal care, which has reduced the chances of mental deficiency.

It has also been recognized that cultural variations effect mental ability. Cultural deprivation and lack of life experiences seem to inhibit rather than promote the development of those intellectual functionings commonly regarded as "intelligence" within the general population. Cultural deprivation may prevent a "normal" child from doing the conceptual tasks expected of his age group...lacking such experiences, the child may be classified as "stupid" or "slow." It has recently been found that mental retardation may be developed at various stages of a child's life. In the prenatal period, metabolism error may occur; at birth, lack of oxygen, inadequate proteins, blood sugar, thyroid hormone or mineral deficiencies; and environmental injuries during childhood as accidents, disease and hunger. Hunger, "hidden hunger," and malnutrition are among the most common causes of mental retardation developing during the childhood years.

The deprivation of love, attention, a feeling of worth, and wholesome stimulation may create mental deficiency.[118]

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[118]Augusta Goldin, "How to Detect and Treat Mentally Retarded Children," Houston Chronicle, July 5, 1971, sec. 2, p. 2.

At present, the major program in preventive services are designed to reduce the incidence of mental retardation by providing maternity and infant care through the Maternal and Child Health Service, Health Services and Mental Health Administration. In January, 1971, fifty-five projects were in operation to provide care for mothers and infants in high risk areas.[119]

Federal grants for the support of projects for the screening of mothers and infants for metabolic diseases and phenylketonuria are presently being awarded.[120] Forty-three states as of July, 1970, have enacted laws relating to the screening of infants for phenylketonuria, and making such examinations mandatory.[121]

Services which are available to the mentally retarded have recently been bolstered by grants administered by the Maternal and Child Health Services for programs are designed to increase the welfare and health services available to the mentally retarded, enlarge existing mental retardation clinics through increasing the numbers of clinics and number of staff personnel, the evaluation of children within institutions, extension of screening programs, provision of treatment services

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[119] U.S. Department of Health, Education, and Welfare, Mental Retardation Activities of the Department of Health, Education, and Welfare, January, 1971 (Washington, D.C.: Government Printing Office, 1971), p. x.

[120] Ibid.

[121] Ibid.

for physically handicapped retardates, increase inservice training opportunities, and provide homemaker and care services for the mentally retarded.[122]

Basic services related to vocational rehabilitation are concerned with medical diagnosis, physical restoration, counseling, and testing, assistance in job placement, and follow-up. Other grants have been issued to encourage and support mental retardation projects within comprehensive health programs.

Programs for assistance in financial matters for the hiring of professional and technical personnel in the operation of new facilities and/or providing staff for operation of new services in existing facilities for the retarded have been established by federal agencies.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88-164) has been recently amended. This provides:

> the states with broad responsibility for planning and implementing a comprehensive program of services and to offer local communities a strong voice in determining needs, establishing priorities and developing a system for delivering services. The scope of the present program broadened to include not only the mentally retarded but also persons suffering from other serious developmental disabilities originating in childhood, including cerebral palsy, epilepsy and other neurologically handicapping conditions.[123]

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[122] Ibid.

[123] Mental Retardation Activities, p. xi.

Professional preparation in the areas of research training in the basic and clinical biological, medical and behavioral sciences; training in the professional provision of personnel in health, social and rehabilitative services; inservice training of workers within institutions; and training of personnel in physical education and recreation for the mentally retarded and other handicapped children is being encouraged by federal programs designed and administered by the Department of Health, Education and Welfare.

Research through the National Institute of Child Health and Human Development of the National Institutes of Health is being supported in all phases of mental retardation and the development, etiology, remedy of mental deficiencies, and neurological diseases.

Some of the areas of investigation are: sensory acuity, accuracy and quickness of perception; memory; speed and accuracy of association; planning ability; initiative; adaptability; intelligence; learning capacity; power of foresight; suggestibility; motor coordination; mechanical ability; habit formation; dependability; emotional control; academic success in various types of subject matter; success in various occupational pursuits; delinquency and crime; reproduction of defective strains; physical and anthropometric characteristics (height, weight, size of head, etc.); stigmata of degeneration; dysgenic effects of various poisons; susceptibility to

various diseases; and mortality. Other areas of investigation are more recent and include: measurement of social participation; techniques for measuring mental deviation; constancy of the IQ; irregularity of mental development; curricular adjustments in special and regular classes; ability grouping; minimal intelligence levels for various occupations; after careers of institutional parolees; city and state surveys of provisions for handicapped children; effects of environmental and hereditary factors; effects of sterilization; electric brain waves; and mental disturbances caused by dysfunctioning of endocrine glands. (See Appendix B for listing of studies).

Aside from the encouragement of parents, groups and individuals involved in the field of mental retardation, the federal goverment is encouraging states, organizations, and individuals to participate in the current concern for the mentally retarded. Through the use of federal funds and the founding of certain programs, it is reflected that mental retardation is becoming a prime social issue. (See Appendix C - funding obligations - U.S. Department of Health, Education and Welfare).

2.8 Summary

The early ages represent two changing views of mental retardation. The Israelite movement represents a period of tolerance, while the later era of the Romans and Greeks provides a glimpse as to the future cruelties which accompanied the history of mental retardation.

The Medieval period and the Rennaissance subjugated the mentally retarded to extreme cruelty (and at the same time, kindness). The Rennaissance provided the educational and theoretical hope of cures and led into an era of frantic experimentation with the mentally retarded.

Within the periods of educational reform, came new hopes for the mentally retarded. The eighteen hundreds was a period of extreme optimism. Almost every form of medical, educational, and/or social technique was used to find means of preventing mental deficiency. However, as there was no cure, a period of pessimism began.

Again, almost every form of medical, educational, and/or social technique was used to link mental retardation with degeneration and crime. Mental retardation was a source of concern, due to the social disapproval of mental deficiency. There were those within this period who advocated the destruction of the deficient, much in the same manner as the Greeks once practiced.

With the end of World War II and the prosperity of the nation, people could once again afford (economically and socially) to hope and to work with the mentally retarded. The cycle is presently extremely optimistic. What the future will hold is yet to be imagined.

However, one phase of the history of mental retardation has, and is at present affecting the field. The relationship of crime to the mentally deficient is still a pressing issue. Are criminals subnormal in intelligence? Is mental retardation a factor in crime? In some types of crime? The next chapter is intended to present an overview of mental retardation and crime from a historical and theoretical standpoint. It is hoped that some of the questions in regard to this matter will be clarified in terms of why attitudes persist, what relation to crime does exist, and what research has been done within the field to prove or disprove the theories which have been and are presently being held?

3.0 MENTAL RETARDATION AND CRIME

It has been argued that crime and mental disease are both different classes of behavior, and that neither can cause the other.[1] Perhaps there is another factor which produces both, for if crime is related to mental disease, it is not known whether crime produces the abnormality, the abnormality produces crime, or whether there is yet an unknown condition which percipitates both.

The idea that there is a basic abnormality within the criminal is an ancient concept. It has been observed:

> Next to the physical type as the measure of constitutional inferiority, mental deficiency probably has been the most widely utilized concept; a variety of theories of crime causation have been based on it.[2]

3.1 Legalities and the Law

Ancient Times. Within ancient times, the laws that concerned the mentally disabled individual were the taboos and customs which prevailed in relation to the explanations of demonic possession as the cause of affliction (as Freud's work on Totum and Taboos).

One of the earliest references to the legal status of the mentally disabled is that which is found in the Twelve Tables of

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[1] C. R. Jeffery, Criminal Responsibility and Mental Disease (Illinois: Charles C. Thomas Publisher, 1967), p. 212-213.

[2] George B. Vold, Theoretical Criminology (New York: Oxford University Press, 1958), p. 75.

Rome (449 B.C.) in which it was provided:

> Si furiosus escit, agnatum gentiliumque in eo pecuniaque ejus potestas esto...ast ei custos nec escit.
>
> If a person is a fool, let his person and his goods be under the protection of his family or his paternal relatives, if he is not under the care of anyone.[3]

The law affected only the head of a family, for all other family members could not hold property. Therefore, it was not considered necessary to appoint a guardian for fools as they could not transact business, make testimonies, or obligate themselves without prior permission from the family patriarch.

The legal guardianship of the mentally defective and mentally incompetent was revised under the reign of Justinian, when it was decided that the individual, if he possessed lucit moments, would be afforded full control of his affairs during his lucidity, the guardianship to resume with the onset of personal disturbance. The law, therefore, was provided mainly for the benefit of the insane, but it did provide for the continual guardianship of the mentally retarded or "fool."

The legal restrictions which were placed upon the mentally incompetent were many. They were unable to form consent for a valid contract; they were restricted from entering into contracts; considered incapable of entering a marriage contract; they were legally incapable of obligating themselves by

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[3]Frank T. Lindman and Donald M. McIntyre, eds., The Mentally Disabled and the Law (Illinois: University of Chicago Press, 1961), p. 6.

delictual acts for they could not form the intent; and they lost all legal capacity once a guardian was appointed.

The lex barbarorum of the fifth century continued the legal restrictions placed upon the mentally incompetent in a means similar to Roman law. The Visigothic Code declared that all contracts entered into by a person "insane" from infancy or any age would have no validity.

The laws of the Middle Ages concerning the insane and retarded continued to reflect the ancients' concern for property, and little regard was given for the individual and his person.

English Law. Legal recognition of the mentally retarded was first established by Edward I (1239-1307) sometime between 1255 and 1290. In the statute, de Praerogative, a distinction was made between the "born fool" and/or fatuus naturalis who "hath no understanding from his nativity"[4] and the lunatic or person who "hath had understanding, but by disease, grief, or other accident, hath lost the use of his reason."[5]

The statute granted the king the custody of the lands of the "natural fools" and after providing for the fool's necessities, the king could retail all other profits. With the death

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[4]Lionel S. Penrose, Mental Defect, (New York: Farrar and Rinehart, Incorporated, 1934), p. 8.

[5]Ibid.

of the "fool" the land was returned to the "right heirs."[6] The guardianship of lands of the mentally defective was a profitable operation.

Edward II (1284-1327) furthered the distinction in the Statute de Prerogatives which held a similar difference to exist between the "born fool" and the individual who was unsound of mind "with certain intervals of understanding" or "non compos mentis, sicut quidam sunt per lucida intervalla."[7]

The fine distinctions between the retarded and the insane were lost throughout the later centuries. The writ of Henry VIII (1491-1547), de idiots inquirendo, did not maintain the distinction, and once again, the mentally retarded were classified with the insane and other social misfits in terms of legal capability and responsibility.

The "Beverly's" case in the early seventeenth century supplied a foundation for the legal technicalities of the nineteenth century.[8]

Lord Coke, in arguing for the protection of the individual non compos mentas (insane) discussed idiots as a means of comparison. Under English law at the time, the insane were represented

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[6]Lindman, Mentally Disabled, p. 7.

[7]Penrose, Defect, p. 8.

[8]Lindman, Mentally Disabled, p. 8.

by guardian or lawyer, whereas the idiot appeared before the court in person. Both the idiot and the insane had the king for a guardian, but the insane also were supplied a representative guardian who could be present during their illness, and who could observe their lucid moments. Throughout the issues of the "Beverly's" case, the arguments of Lord Coke indicated that there was much concern for the insane and the care, legal responsibility, and protection of the lunatic and the mentally incompetent, but he emphasized the responsibility of the Crown should extend to the care of the individual himself. The "Beverly's" case became the earliest legal precedent for personal rights of the insane and the mentally defective, over the rights of the state and the Crown to property of the incompetent.

Later legislation in England did little to protect or to distinguish the mentally retarded from the insane. The Poor Law Amendment Act of 1868, which extended certain powers of guardians, tended to group the retarded, insane, and others, into one large grouping.

The Lunacy Acts of 1890 and 1891 did not aid the mentally retarded in reaching a distinctive legal status. The acts tended to be an obstacle to the legal claims of the mentally deficient. They allowed lunatics, idiots, imbeciles, and feebleminded, as well as a general classification of individuals of "unsound mind," to be sent to asylums, registered

hospitals, licensed houses, and Poor Law Institutions with minimal legal consideration.[9]

The Idiots Act of 1886 provided major legislation necessary to distinguish the mentally retarded from the insane. The Act provided that one who was an idiot or imbecile from birth or an early age could be placed in an institution or hospital for the care, education and training of the mentally defective by his parents or guardian.[10] This provided a means of allowing individuals to place him in a specific institution, rather than merely submitting to the Crown and accepting the placement of the individual in the first institution which would accept him.

With the Idiots Act came a legal concern for the "existing methods of dealing with idiots and epileptics and with imbeciles, feebleminded, or defective persons not certified under the Lunacy Laws,"[11] Not only was the legality of commitment challenged, but the methods of treatment, guardianship, and control were questioned. The result was the appointment of a Royal Commission to study the situation and to recommend more effective legislation.

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[9]Penrose, Defect, p. 8.

[10]Ibid., p. 9.

[11]Ibid.

The result of the commission's work was the Mental Deficiency Act of 1931 which provided definitions of idiots, imbeciles, feebleminded, and moral defectives, and a definition of legal status and control. The most important point of the Act was the statement of responsibility to themselves or others, and failure of this responsibility as being necessary for the certification of an adult as being mentally or morally defective.

> No adult mentally defective person can be certified in this class unless circumstances can be shown to exist combining the need for the care, supervision, and control with insufficient protection of themselves or of others.[12]

It must be noted that the term "moral defective" used within the Act is purely an administrative term which was included to facilitate the certification of persons of only slight subnormality. It was the opinion of the Commission that delinquency in regard to the prevailing social code might be due to a specific deficiency in moral sense although the intelligence might be unimpaired.

United States. In the United States, the pattern of legal development was similar to that in England. In colonial America, community facilities for the mentally defective were lacking, and the family was obligated to care for its own. Those who were without family or relative, roamed about the countryside, begging to maintain their existence. The itinerant individual was feared, as no one wished to become so kind as to be led into a friendly relationship in which they might have to support him.

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[12]Penrose, Defect, p. 10.

The Puritanical ethic of work and industry which was equated to morality, also hampered the establishment of legal rights and concerns for the mentally disabled. In 1676, Massachusetts enacted a statute which ordered selectmen to care for dangerous individuals "that they do not damnify others" thus establishing the legal basis for forcible restraint of the violent.[13] The statute was based upon Lord Coke's arguments in the "Beverly's" case in which it was declared that a non compos mentas could not be guilty of a murder or a felony as he could not form the felonious intent, but that he could be guilty of high treason which was a crime against the community.

It was from the Massachusetts statute that the laws concerning the mentally retarded and the mentally ill within the United States were established. The early laws concerning the mentally irresponsible in the colonies varied little from the English law. After the Revolution, many of the laws remained the same.

The right of habeas corpus was retained as being an essential right of all men, and was the primary means of obtaining a release from guardianship or institutional care. The commitment procedure of George III which regarded the commitment of the nonviolent was modified by the various states. Pennsylvania required only that a physician certify for commitment, rather than certification of family or guardian, constable, and physician as under English law.

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[13] Linaman, Mentally Disabled, p. 10.

In 1788, New York enacted a statute that concerned:

> persons, who by lunacy or otherwise are furiously mad or are so far disordered in their senses that they may be dangerous to be permitted to go abroad.[14]

and commissioned two or more justices to issue warrants for the apprehension and safekeeping of such individuals.

The development of laws which regard the mentally retarded and the mentally ill are dependent upon three factors: the extent of medical knowledge regarding treatment, care and cause; the extent of acknowledgement of responsibility by the community and the political structure; and the legal profession's knowledge of and involvement in social forces concerning the issue. The laws of the times reflected concern for property and for protection of private property, but concern for the individual and his needs came only with the change in awareness of the humanitarian movement in society, in the latter half of the nineteenth century. During this movement, the focus was shifted to treatment of the insane. Due to the efforts of Dr. Benjamin Rush, Dr. Isaac Ray, Mrs. E.P.W. Packard, and Miss Dorothea Dix, public attention was focused upon the treatment, care and needs of the insane. Improvements in legislation were achieved, which eventually were applied to the mentally retarded.

Current Trends. Currently, there is a trend within the legal profession to unify the common elements of legal precedent

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[14]Lindman, Mentally Disabled, p. 11.

and to work toward a code which would unify the legal rights of all handicapped persons. The first "General Principle" composed by the International League of Societies reflects the concern for the handicapped as an individual:

> The mentally retarded person has the same rights as other citizens of the same country, same age, family status, etc., unless a specific determination has been made, by appropriate procedures, that his exercise or some or all of such rights will place his own interests or those of others in undue jeopardy.[15]

The view expressed is one of "Normalization" which is the converse of the earlier view of the deficient individual may be presumed incapable of exercising any of the rights of citizenship. It is recognized now that the legal system which involves the mentally retarded is unsuccessful in providing individual rights.

The terminology used within many state statutes is imprecise. "Incompetency" may be established through determination and examination in one area. The lack of uniformity among state laws in precise definitions creates legal technicalities which serve only to retard development of the "normalization" process.

It is becoming realized that no one diagnostic term can be completely adequate for every situation nor consistant with ever advancing knowledge. The laws regarding the handicapped are

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[15]Richard C. Allen, Legal Rights of the Disabled and Disadvantaged (Washington D.C.: U.S. Department of Health, Education, and Welfare, 1969), p. 7.

being viewed as laws which must be written in a more flexible manner.

The legal technicalities of guardianship are being re-examined. It is no longer sufficient to appoint a guardian to care for the property and estates of the mentally disabled. Many of the statutes of various states within the United States do not provide more than the 1712 English law which provided the mentally retarded with "very great and tender consideration" through guardianship by the "Keeper of the King's conscience."[16]

Concern for the legal rights of the mentally retarded is becoming more prevalent. Revision in the long standing attitude that the rights of the retarded consisted merely of the rights of his guardian or conservator" to prevent waste or destruction of any property that might come into the possession of the retardate,"[17] or the right of society "to protect itself against the retardate's derelictions"[18] are being encouraged, studied and acted upon.

To sustain the rights of the retarded individual, courts are being encouraged to seek clinical evaluation, to use community resources, and to revise guardianship rules and qualifications.

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[16]Allen, Rights, p. 11.

[17]Allen, Rights, p. 11.

[18]Ibid.

The retardate is recognized as having the right to counsel at incompetency hearings, and slowly the revision is being made for the requirement of legal representation at such hearings.

Revisions are leading to the "normalization" process also. Some states are establishing a system by which the state may appoint a specific agency to become the guardian of a retardate if there is no one who is able to fill the role. Some are beginning to revise the laws and statutes which make it necessary to complete commitment proceedings before protective care and services may be received.

The specific needs and areas for revision may be delineated as follows, according to the National Citizens Conference on Rehabilitation of the Disabled and Disadvantaged statements:

1. Reduce the number of terms employed in statutes to dominate some or all mentally handicapped persons, and eliminate ambiguous, confusing, or epithetical terms.
2. Define as precisely and appropriately as can be done the class of persons for whom a particular service is intended. Each such definition should be ad hoc - for a particular purpose - to minimize the risk that reiteration of the terms used will cause provision of a particular protective service to result in a status of general incompetency.
3. Require judicial approval for institutionalization of a child where it appears that such care is sought in whole or in part to meet the needs of persons other than the child.
4. Establish clinical services adjunctive to every court which has the power to order institutionalization or guardianship of mentally handicapped persons.

5. Clearly separate institutionalization and incompetency in law, administrative regulation and practice. Admission to a service or treatment program should not give rise to a presumption of inability to manage oneself or one's affairs.

6. Multiply and greatly improve community facilities for the mentally handicapped. If this were done, many persons now requiring institutionalization could remain in the community.

7. Improve residential care facilities...

8. Require periodic re-evaluation, and where appropriate, retesting, and re-examination of all inmates of residential care institutions...

9. Invoke special procedures when an inmate of a residential care institution reaches the age of 21, in order that a guardian be appointed and appropriate family planning made when needed.

10. Do not require parents and other relatives to bear the cost of institutional care...

11. Give consideration to providing payment to the parents of a retarded child capable, with special help, of living in the community...

12. Provide intensive care facilities - offering real rehabilitative care and not merely imprisonment - for the retardate with problems of behavior.

13. Establish an inexpensive, stigma-free guardianship procedure.

14. Create a public agency in every state coordinated with, but independent of the agency having control of state institutions and special education facilities. The new agency should have casework, legal, financial, and other resources so that it can assist private guardians, or serve in lieu of a private guardian for mentally handicapped persons.

15. Delineate the duties of a guardian of the person - perhaps through the joint efforts of local bar associations and associations concerned with the care of the mentally handicapped.

16. Improve court facilities and procedures for supervision of guardians.

17. Appoint a guardian <u>at litem</u>, who is a lawyer, to represent an alleged mentally handicapped person in any case affecting his liberty, property or other vital interest, whenever the court is not convinced that he has adequate representation.

No such person should be considered adequately represented on the basis that a petitioner (other than himself), or a relative is represented by counsel.

18. Make information about laws affecting the mentally handicapped and their families widely available to parents, legal and medical advisors, and to community and residential care personnel.
19. Provide explicit guidelines with respect to a residential care institution's management and disbursement of patient funds.
20. Re-examine commitment laws with the view of changing those procedures which demean or humiliate the subject of the petition, or which deal with him as though he were a criminal...
21. Abolish compulsory sterilization, under whatever euphemism it may be invoked.
22. Conduct research into the relationship of mental retardation and criminal behavior, and into the ways in which present criminal law - correctional procedures might be improved...
23. Consider legislation recognizing that where one's liberty is taken away on the basis of a determination that he is in need of treatment, treatment must be in fact provided; if it is not, he has the right to demand his release.[19]

The need for change in regard to the laws and legal procedures concerning the mentally retarded have been reflected in the concern manifested by the federal government. The recommended changes parallel those recommended by recent citizen's groups studying state statutes. The President's Commission on Law Enforcement and the Administration of Justice outlines the basic changes which have been proposed.[20]

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[19] Allen, Rights, pp. 84-86.

[20] President's Commission on Law Enforcement and the Administration of Justice (Washington, D.C.: U.S. Government Printing Office, 1968), passim.

The President's Commission report sought the answers to many questions including: was the issue of competency to stand trial raised in trials dealing with the mentally retarded, or those suspected of being retarded; did the courts make referrals for examination in such cases; was the defense of lack of criminal responsibility made by counsel during the trial; was the evidence of mental deficiency presented during the issue of admissibility of confession or testimony; and what alternatives were available to the court for disposition of the case other than imprisonment?

Results of the studies and surveys made by the commission infer that the criminal justice system is lacking in a means of dealing with the retarded offender. A lawyer studying the penal provisions may be surprised at the absence of decided cases. The explanation is that the defective pauper has not the intelligence or the money for arguing the points of criminal law, nor does he have the relations or friends who are willing and able to spend money for this purpose.[21]

The criminal trial is inadequate in itself for the identification of the retardate, and other methods must be utilized if the special handicap of the individual is to be considered and dealt with accordingly. The commission also noted that few of the rehabilitation programs which exist within penal

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[21]Cecil Binney, Crime and Abnormality (London: Oxford University Press, 1949), p. 110.

institutions throughout the United States are adequate for the effective rehabilitation of the retarded offender. The study presented the view of the criminal justice system in terms of what is needed to effectively begin to treat the mentally retarded offender and opened areas for improvement through federal and state legislation.

The need for revision of laws and statutes regarding the mentally retarded is becoming a matter of increasing importance, as most legislation concerned with the rights of the retarded is predominately designed for the mentally ill. The inclusion or exclusion of the retarded in such provisions has tended to be incidental and as a result of a state's organization of its mental institutions rather than a deliberate effort on the part of the legislature.[22]

3.2 Theories of Mental Retardation and Crime

Mental retardation has been linked with criminality due to the fact that the condition renders the individual unable to take his part in social and economic structures within the society of which he is a part. To the ancient Greeks, physical weakness was criminal. To the Medieval society, the retarded were more nuisances than objects of entertainment. The Elizabethans regarded the poor and wandering fools as criminals.

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[22]Roger W. Newman, ed., Institutionalization of the Mentally Retarded (New York: National Association for Retarded Children, 1967), p. 141.

Laws throughout history have recognized the retarded as being capable of illegal acts. In the early part of the nineteenth century, the retarded were objects of pity and received sympathy, but warnings of "a relationship between mental deficiency and poverty, insanity, criminality and prostitution"[23] were stressed.

In the twentieth century, from 1919 to 1920, the "menace of mental retardation" became a major social concern.[24] Research into the cause of crime and the relationship between mental deficiency and crime flourished, increasing the fears of the public concerning the mentally retarded and reflecting the social stigma which is even today apparent.

Theories concerning mental retardation and crime fell into three categories: religious; physical or genetic; and environmental.

Religious Theories. The religious school of thought regarded the relationship between crime and intelligence as based upon the concept of original sin. The writings of theologians regarding the subject were prevalent during the early twentieth century, and have had a lasting effect and influence upon the attitudes of the public regarding the mentally retarded.

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[23] J. Clausen, "Mental Deficiency - Development of a Concept," American Journal of Mental Deficiency, 1967, Volume 71 (5), pp. 727-45.

[24] M. H. Haller, Eugenics (New Jersey: Rutgers University Press, 1963), p. 15.

The deficient criminal was "weak of will" due to "idleness, drugs, alcoholism, sexual excess, venereal disease, malnutrition, and irregular ways,"[25] or the abuses of his parents. As stated by Isaac Watts, "sprung from the man whose guilty fall corrupts his race and taints us all," the mentally retarded were the result of sin and sinful inheritance.

> ...the whole race has lapsed from original righteousness, and that...the soul is in an abnormal state....To this abnormal state may be traced the prime cause of criminal life.[26]

The religious school of thought steadfastly defended its position against the theories of the environmentalists and the proponents of physical or inherited causes.

The basis for the universality of crime and mental deficiency was not inherent causes or criminal propensities, but was sin, moral weakness, and perverse life.

Dr. E. C. Wine, in "State of Prisons" and Dr. P. Despine of France correlated the following view:

> Although many criminals are as scantily endowed with intellectual as with moral faculities, it is not the lack of intelligence which is the distinctive character of these dangerous beings, for there are among them persons of great intelligence, capable of forming ingenious combination which are the product, necessarily, of strong, reflective faculities....In studying criminals, the first thing which strikes us, and which is obvious to all, is the perversity

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[25] Charles Richmond Henderson, The Cause and Cure of Crime (Illinois: A.C. McClurg and Company, 1914), p. 101.

[26] Daniel R. Miller, The Criminal Classes Causes and Cures (Ohio: United Brethern Publishing House, 1903), p. 124.

> of criminal thoughts and desires, inspired by the evil inclinations and vices inherent in mankind.... It is violent passion, hate, revenge, jealousy, envy, it is also other passions which, without being violent, are no less tenacious in criminals, such as cupidity, the love of pleasure, profound repugnance to a regular life, and an intense dislike of labor....But these malign passions, these immoral propensities and desires do not really constitute an abnormal physical state; and the proof is that these evil tendencies, wicked passions, and perverse and criminal desires make themselves felt in the soul....[27]

The religiously oriented did not consider mental retardation as a permanent physical state, but as a punishment or possession which could be overcome by moral training, hard work, and purity of thought. Even with advancing scientific and medical research in the field, it was believed that the retarded would be able to overcome their handicaps if God were to forgive them and their parents. "The proper development of intelligent beings calls for the constant action of the will...."[28]

The religious orientation called for the abolishment of certain social ills in order to rid the world of the defective delinquent. Intemperance which leads to crime, corrupts the young, creates criminals, and is the downfall of those weak in mind and therefore weak in will was a primary concern. Temperance groups urged the abolition of "rum and drink" on the ground that it would save the weak-minded from future

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[27]Miller, Criminal Classes, pp. 128-29.

[28]Miller, Criminal Classes, p. 139.

sins, and stated, "vile literature, dime novels and sensational reading lead the helpless and poisoned their minds." Anthony Comstock of New York, crusaded against "evil reading" as being the "agent of Satan."

The religiously oriented also urged the education of prospective parents in matters concerning thoughts and action to prevent the further creation of retarded delinquents. This was based upon the theory that:

> the thoughts, desires, and impulses of the father may make impressions upon certain cells of fecundating fluid, prior to the conception of a child, and that the thoughts, desires, and impulses of the mother may make impressions upon the fetus of the child prior to its birth, and the seeds thus sown subsequently become factors for good or bad. If factors of crime, they will assert themselves in some form from embriotic flaw...[29]

The antidotes and "cures" for the mentally retarded criminal were based upon those things which were needed for moral and religious life: education, hard work, industry to keep mind and hands busy, discipline, and moral and religious training. F. B. Sanborn, John Howard, and Rutherford B. Hayes advocated the use of "devine work in regenerating the heart and reforming the life of sinful men."[30]

Punishment was considered to be necessary in order that the retarded offender realize the consequences of his acts and to

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[29] Ibid., pp. 131-2.

[30] Miller, Criminal Classes, p. 131.

purge from him the sinful inclination which would lead to further criminal acts. This was based upon the fact "punishment for wrongdoings began in the Garden of Eden" and man cannot escape the consequences of sin.[31]

Many who followed the theological school of thought equated mental retardation with insanity, or believed it to be a form of insanity resulting from a direct exercise of Divine power over the sins of the individual or his ancestors.

Dr. Daniel Hack Tuke, Fellow of the Royal College of Physicians, and recognized psychiatric authority of his time, encouraged this view in his book, Insanity in Ancient and Modern Life, with Chapters on Its Prevention. Whether Dr. Tuke and his associates wrote what the public desired to read, or whether they believed the contents of their book, has been a matter of controversy, for their research, practice in treatment and cause denied their moralistic theories.

Dr. Tuke, however, stated in his book, that those who kept the Commandments were less liable to insanity and diseased and disorders of the mind than were those who did not. Such disorders were due largely to "moral causes, controllable by the will, and stated that dangers were imminent at the years in multiples of seven."[32]

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[31]Horace Wyndham, Criminology (New York: Jonathan Cape and Harrison Smith, Incorporated, no date), p. 79.

[32]John Biggs, The Guilty Mind (New York: Harcourt, Brace and Company, 1955), p. 74.

As causes of such disorders were listed:

> intoxication, either by the individual or his ancestors; defective nourishment; proverty, inheritance; and...intellectual strain; causes chiefly moral, including sensual excesses; disappointments in love; and fears of the misery of the soul after death; and also mental strain from overwork.[33]

As such the causes listed by Dr. Tuke and others were the same as the causes of crime listed by noted criminologists, the public correlated the two and soon mental retardation was equated with criminality due only to weakness of will and punishment of unknown sins.

Physical and Genetic Theories. Defective intelligence "is one of the primal sources of crime..."[34] The school of thought which dealt with the physical causes of crime tended to equate mental deficiency as a cause of crime inherent in itself. Mental retardation was the basis of, or was coupled with, criminal propensities, and thusly, was a criminal trait.

Cesare Lombroso, in his studies of "criminal type" created a foundation for numerous theories regarding the criminality of the mentally retarded. From Lombroso's research and that of Bordier, Benedikt, Muller, Hackel, Colajanni, and Ferrero continue the search for the atavistic trait which could be used to identify the "born criminal" and segregate him from society.

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[33] Ibid., pp. 74-5.

[34] L. Radzinoqiez and J.W.C. Turner, eds., Mental Abnormality and Crime (London: MacMillan and Company, 1959), p. 93.

Benedikt, in his studies found:

> ...some persons whose cerebral organism is inferior to the average and represents the heredity of the savage and of the primitive man. The unfortunates who possess a similar neuro-cerebral organism would form...the rear-guard of humanity. Their intelligence and moral sentiments must be likewise inferior.[35]

Atavism considers the criminal in retrograde. He has been detained phylogenetically in the human or prehuman evolution; he has been arrested ontogenetically in childhood. Lombroso characterized the atavistic criminal as having:

> slight development of the pilar system, low cranial capacity, retreating forehead; highly developed frontal sinuses; great frequency of Wormian bones, early closing of the cranial sutures; the simplicity of the sutures; the thickness of the bones of the skull; enormous development of the maxillaries and of the zygomata; prognathism; obliquity of the orbits; greater pigmentation of the skin; tufted and crispy hair; and large ears...[36]

Further characteristics included the lack of shame, lack of purity, laziness, absence of remorse, impulsiveness, etc. Such atavistic characteristics are repressed by education, environment, and fear of punishment. The mentally retarded are especially vulnerable to the sudden derangements of the nervous system and centers creating atavistic retrogressions. The degenerate abnormalities of the more animal-like atavist were to

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[35] C. Bernaldo De Quiros, Modern Theories of Criminality, trans. by Alfonso De Salvio (New York: Agathon Press, Incorporated, 1967), p. 42.

[36] Cesare Lombroso, Crime: Its Causes and Remedies, trans. by Henry P. Horton, (Massachusetts: Little, Brown, and Company, 1911), p. 365.

be found "in greater proportion among idiots, cretins, and degenerates in general..."[37]

Galton, Virgilio, Ribot, and Bleuler accepted the hypothesis of Lombroso as to the nature of degeneration, but used the theory to explain "moral insanity" (a term which is still applied to the mentally retarded in regard to criminality).

Lombroso, after classifying the "criminal types" and explaining the atavistic traits of the criminal, further explains the circumstances which produce the breakdown of any holds which education or society might have upon the individual. Excessive heat, education which may be dangerous due to over-stimulation of the cerebrum, exposure to wealth, injuries to the head, pregnancy, chronic intoxication, senility, and scarcity of goods increase the rate of crime due to the release of the degenerate and atavistic tendencies.

Education, other than that of a general type, according to Lombroso, was a danger and one of the factors which would lead to crime. Criminals learn through reading to use new scientific discoveries, new techniques and tend to commit crimes of violence more often due to the cerebral activity generated by use of the brain in learning. However, learning, once it is diffused and the brain is not stimulated to such great extent

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[37] Ibid., p. 370.

by new knowledge, leads to less violence, against individuals, and more against property. It was believed that to protect society, only diffused and practical learning (that which takes place outside of the school in the area of trade or job-training) should be utilized with epileptics and idiots who were more prone to physical violence and criminality than the born criminal, whose epileptoid tendencies are latent.

Some individuals held that the defective criminal was a result of inborn predisposition of man toward crime. The retarded possessed uncontrollable impulses which made him a perpetual threat to society. The inborn predisposition was the result of the formation of the brain. Phrenology advocated the suppression of various parts of the brain in order to control the criminal impulse.

> A man's actions are the result of the excitation of his cerebral organization...Phrenology teaches that certain parts of the brain perform certain mental functions. To suppress those organs of the mind which are the cause of evil, and develop those which are the cause of good, by selection and stirpiculture, to take care that evil impressions are not made on the brain, and thus to create a perfect man...
>
> The science of phrenology proves most conclusively that man's actions are the result of his cerebral organs, and his conduct, good or bad, will be according to his brain. A man is not born criminal, but he may be born with such propensities as will cause him to break the laws...[38]

Gall's theories and doctrines differed from those of Lombroso on the fact that phrenology did not believe in the born criminal. Both theories agreed upon the common factor of cerebral

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[38]Henry Smith, Responsible or Irresponsible (London: Watts and Company, 1898), p. 73.

stimulation as being harmful. The defective human, when aroused, will commit defective acts. Those who are born with defects, as the mentally retarded, are more prone to criminal activities.

Both the followers of Gall and Lombroso advocated stronger control over defective individuals, including the drunkard, thief, and mentally retarded. The belief that a perfect man could be created through social control and careful selection tended to be the common tie between the two groups of theorists. (c.f. Tables 1 and 2).

Lombroso's studies of the physical stigmata characterizing criminal types were challenged by Galton and Goring. Through their research, Galton using composite photography and Goring using physical measurements, Lombroso's theories were shown to be invalid. However, stigmata are still of diagnostic value due to the fact that they are physical signs associated with specific diseases. Some clinical types may be identified by "stigmata" as mongols, microcephalics, and some cases suffering from endocrine disorders. The use of physical characteristics as a manner of identifying the mentally retarded is still of value in understanding the physical development of such individuals.

It was theorized by many that the criminality of the mentally retarded was increased at puberty. During puberty, control of

TABLE 1

Investigation Based Upon the Theories of Lombroso

Date	Investigator	Type
1870	Morel	predisposition to crimes, especially murder
1875	Moreau	predisposition to crimes through inheritance
1879	Bordier	formed hypothesis of criminal atavism by comparison of skulls of murderers
	Broca	scientific survey of heads of dead criminals
	Benedikt	survey of brain weights of beheaded criminals
1880	Lombroso	heredity of criminal tendencies and physical stigmata
1883	Rossi	compilation of terms used in Criminal Anthropology
	Laura	compilation of terms used in Criminal Anthropology
1885	Virgilio	crime is due to disturbance in affect creating a neurosis
1887	Marro	origin of crime is a defect in the nutrition of the central nervous system
1888	Tarde	archeological survey of the traits of man
	Fere	studies regarding the relationship of crime to degeneracy
1889	Colajanni	theory of moral atavism
	Corre	studies regarding the relationship of crime to degeneracy
1890	Ellis	English study of criminals based upon the theories of Lombroso

TABLE 1 (con't.)

Date	Investigator	Type
1890	Tarnousky	study of female criminals based upon the theories of Lombroso
1892	Montyel	studies in the relationship between crime and degeneracy
	Tarde	crime is due to a natural predisposition
1893	Galton	studies on the formation of intellect and comparison of intelligence and physical characteristics - crime is due to disturbance in affect
	Magnan	nerve center investigations
	Kirn	denial of the "born criminal" theory
	Baer	studies challenging Lombroso's theory
	Kurella	revision of Lombroso's theories in order to adapt them to German criminals
	Bonfigli	crime is due to injury of inhibition centers in the brain
	MacDonald	United States study of criminals using Lombroso's theories
	Lewis	epilepsy as the cause of atavism
1895	Sommer	development of the theory expressing the view of a "born or endogenous" delinquent
	Aubry	predisposition to crime is inborn in man, especially for the crime of murder
1896	Dallemagne	degeneracy and criminality are related only as symbols in the process of continual evolution

TABLE 1 (con't.)

Date	Investigator	Type
1896	Nacke	criticisms of Lombroso's theories
	Vichow	criticisms of Lombroso's theories
	Benedikt	neurasthenia is the atavistic cause of crime
	Winkler	Dutch study of criminals using Lombroso's theories
	Ribot	crime is due to the disturbance of the affect
	Ferrero	developed the "atavism through equivalents" theory
1900	Zuccarelli	traced the history of Criminal Anthropology
	Giner	developed a concept of moral insanity
1901	Capano	epilepsy as a cause of anarchistic criminality
1902	Vaschide and Vurpas	developed the theory that biological weakness creates stigmata
1903	Kovalewsky	crime is due to injury in inhibitory systems of the brain
	Aschaffenburg	criticism of Lombroso's theories
	Kovalewsky	Russian study of criminals according to the theories of Lombroso
1906	Angiolella	studies in Criminal Anthropology which substantiates Lombroso's work
	Antonini	studies in Criminal Anthropology which substantiates Lombroso's theories

TABLE 1 (con't.)

Date	Investigator	Type
1906	Ortiz	studies on the "atavism through equivalents" theory
	Norsworthy	motor dexterity studies with the mentally retarded
1907	Ingegnieros	classification of psychopathic states
1914	Whipple	motor dexterity in the mentally retarded - reviewed literature concerning sensory tests as indications of intelligence
1930	Paterson	"stigmata" as organic deficiency in the mentally retarded
1931	Burke	organic deficiency in the mentally retarded - the "stigmata" in idiots
1933	Holman	motor tests as an indication of intelligence
1934	Attenborough and Farber	relation of motor ability to IQ
1935	Lewin	qualitative differences in thought processes
1936	Flory	physical development of the mentally retarded
	Abernethy	physical development of the mentally retarded
1940	Woodrow	motor ability as related to IQ
1941	Kounin	qualitative differences in thought processes
1942	Heath	Heath Rail Walking Test developed
1944	Lindsley	EEG in relation to physiological and psychological processes
1946	Burt	factors regarding slow learners

TABLE 1 (con't.)

Date	Investigator	Type
1946	Jones	review of the literature relating physical characteristics and mental characteristics
1948	Lassner	Oseretsky Scale literature review
1949	Penrose	head size and brain weight of the mentally retarded
	Tredgold	anomalies in mental retardates and psychopaths
1950	Ostow	review of the literature regarding EEG and IQ
1951	Anastasi and Flory	review of the literature regarding sensory handicaps
	Birch and Matthews	audiometric survey of mental retardates
	Schunhoff and McPherson	deafness as related to intelligence
	Cantor and Stacey	motor testing of feebleminded adults
1953	Reynolds and Adams	motor ability as related to IQ
1954	Foale and Paterson	deafness as related to IQ
	Solomon	age and rigidity in thought
1955	Sloan	restandardization of Oseretsky Scale
	Clarke and Hermelin	motor ability as related to IQ
	Loos and Tizard	motor ability as related to IQ in the mentally retarded
1956	Tyler	head size and brain weight of the mentally retarded

TABLE 1 (con't.)

Date	Investigator	Type
1956	Ellingson	EEG in relation to physical and mental processes
	Bordley	comparison of hearing in babies to that of idiots
	Whetnall	use of hearing aids on babies
1957	O'Connor	frequency of color blindness among imbecile males

TABLE 2

Neurological Investigations Stemming from Gall's Theories

Date	Investigator	Type
1650	Descartes	interaction of brain and mind at pineal gland
1824	Gall	extreme localization of functions
1861	Broca	localization of speech defects
1914	Binet and Simon	recognition of sites of brain injury
1926	Head	diagnosis of sites of brain injury
1931	Jackson	theoretical ordering of neurological processes
1937	Piotrowski	application of the Rorschach to brain injured
1941	Goldstein and Scheerer	cortical dysfunctions developed block design test
	Lashley	non-localization
	Armitage	non-localization
	Ross	validity of Rorschach as applied to brain damage
1942	Werner and Thuma	perception studies on endogenous and exogenous defectives
1943		Hunt-Minnesota Vocabulary Test developed for brain injured
	Potter	studied social maladjustment in relation to brain damage
1945	Klebanoff	diffussion of responses in brain damaged children
	Hoakley and Frazier	compared brain damaged and familial mentally retarded on Binet Test

TABLE 2 (con't.)

Date	Investigator	Type
1946	Armitage	Train Making and Patch Tests developed
	Graham and Kendall	Memory for Designs Test developed
	Sarason and Sarason	studied brain damage as form of mental retardation
1947	Halstead	discrimination as a means of determining frontal lobe injuries
	Strauss and Lehtinen	non-localization studies with brain damaged and mentally retarded
	Allen	validation of Wechsler Deterioration Index as applied to brain damage
1948	Hughes	application of Rorschach to brain injured
	Burke	comparison of brain injured and non-brain injured on Bellevue-Wechsler
1949	Boyd	study of intelligence in relation to brain damage
	Cassel	validation of the Ellis Vinel Test for brain damage
1950	Gutman and Rogers	validation of Wechsler Deterioration Index as applied to the brain damaged
	Potter	studied social maladjustment in relation to brain damage
1951	Shapiro	summarized studies regarding validation of tests for brain damage
	Diers and Brown	challenged Hughes study

TABLE 2 (con't.)

Date	Investigator	Type
1951	Kahn	developed Symbol Arrangement Test
1952	Tredgold	attributed birth injuries as a secondary cause of mental retardation
1953	Grassi	discrimination of organic and non-organic cases through block copying
	O'Connor	compared brain injured with mentally retarded
1954	Yates	summarization of validation studies on tests for the brain injured
1955	Price and Deabler	development of Spiral-After-Effect Test
	Strauss and Kephart	studied causes of brain injury and mental retardation
1957	Tizard	theories of brain functions
	Meyers	theories of brain functions

inhibitions was impossible for the retarded, and thusly, more serious crimes were committed. Morons and high-grade morons tended to commit acts during puberty which approximate the acts of normal delinquents.[39] The serious crimes in which the mentally retarded become involved, as murder and rape, tend to be the result of the attempts by the individual to escape criticism or punishment.

The feebleminded individual, fearing the punishment he may receive for making a child cry, may murder the child. The qualified capacity for understanding tends to aggravate rather than diminish criminal activity.[40] In the high-grade moron, intellectual defect is apparently a less important element in antisocial conduct than is weakness of inhibitory control and lack of sensibility in moral conduct.

Thus, puberty, an age difficult for the normal, is a period of severe difficulty for the mentally retarded. The need for understanding this period is increased through the theories regarding the physical development of the mentally deficient. Flory, in studies related to the criminal stigmata of Lombroso, clarified the developmental sequence;

> Amentia is a condition which is accompanied by general organic deficiency. It appears that a feeble mind in a normally developed body is relatively rare. Mental deficiency does not appear

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[39]William C. Sullivan, Crime and Insanity (London: Edward Arnold and Company, 1924), p. 189.

[40]Sullivan, Responsibility, p. 77.

> to be confined to the central nervous system. A blighted mentality seems to be symptomatic of calamity which has affected the whole organism.[41]

Paterson, Abernethy, and Burt substantiated the conclusions of Flory, which led away from the criminal stigmata or phrenological point of view of mental retardation and into an era of more exacting research into the causes of crimirality and antisocial behavior among the mentally defective. With the basis established by the earlier physical theorists, the school of thought expanded into further areas.

The greatest shift of emphasis within the area of physical theories regarding mental retardation occurred within the latter part of the nineteenth century. Retardation was viewed as being genetic. This view has, perhaps, caused more controversy than any other theory regarding mental retardation. "What are the causes of crime? Drink, gambling, and permitting the diseased in mind and body to marry."[42]

With the early part of the twentieth century, concern regarding mental defectiveness as a genetic characteristic increased. Tredgold (1909-10) drew attention to the danger of defectives having children in a report stating:

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[41]Clarke and Clarke, Mental Deficiency, p. 155.

[42]Smith, Responsibility, p. 77.

> ...I would lay it down as a general principle that as soon as a nation reaches that stage of civilization in which medical knowledge and humanitarian sentiment operate to prolong the existence of the unfit, then it becomes imperative upon that nation to devise such social laws as will ensure that the unfit do not propagate their kind.[43]

Dr. Henry H. Goddard furthered the concept through his numerous studies of the families of defectives. In a paper presented before the American Breeder's Association, he suggested that the defect was transmitted by a typical Mendelian pattern. Goddard's influence was extreme, as indicated by Davenport in his report of transmission of mental defect:

> ...there are laws on inheritance of general mental ability that can be sharply expressed. Low mentality is due to the absence of some factor, and if this factor that determines normal development is lacking in both parents, it will be lacking in all of their offspring. Two mentally defective parents will produce only mentally defective offspring. This is the first law of inheritance of mental ability...The second law of heredity of mentality is that aside from 'Mongolians', probably no imbecile is born except of parents who, if not mentally defective themselves, both carry mental defect in their germ plasm.[44]

The studies of the Jukes family by Dugdals (revised to review the possibility of mental retardation by Estabrook) and of the Kallikak family added to mounting public concern over the inheritance of mental deficiency. The widespread acceptance of

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[43]Clarke and Clarke, Mental Deficiency, p. 34.

[44]Clarke and Clarke, Mental Deficiency, pp. 428-429.

such studies may be noted by the fact that Goddard's work formed the basis for the first article on mental defect to appear in the Encyclopaedia Britannica. As late as 1933, it was believed that "the chief cause of feeble-mindedness is hereditary."[45]

> Numerous family histories support this contention. A very small proportion of cases is due to disease or accident. There is at present no cure. The care and control of the feeble-minded consists of education, segregation, and sterilization.[46]

Goddard introduced the newly devised Binet-Simon test to the United States. He found, upon testing the patients at Vineland Institution, almost all had a mental age of more than twelve years. Without comparison of a control group, he inferred that a mental age of twelve years marked the difference between mental defect and normal intelligence.

Shortly after Goddard's experiments with the Binet-Simon test, various studies were established to test the prisoners in different penal institutions throughout the United States. It was found that the majority of the criminals had mental ages of below twelve years, the conclusions therefore being that most criminals were feebleminded.

The prevailing attitude was reflected by professionals and laymen alike. By 1920, public awareness of mental retardation was

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[45] Ibid., p. 431.

[46] Ibid.

increased. The attitude of the synonymous relationship between mental defectiveness and crime was reflected in the public's attempts to protect himself.

The British Mental Deficiency Act of 1927 defined the mentally retarded as

> ...persons in whose case there exists mental defectiveness coupled with strongly vicious or criminal propensities and who require care, supervision, and control for the protection of others.[47]

The tenacity of these beliefs may still be found, reflected in public attitudes and various works. The Maryland Commission on Medico-Legal Procedure in 1951 noted:

> ...It is essential for the protection of the lives and property of Maryland citizens that provision be made in our laws and penal institutions with respect to the class of criminals known as defective delinquents. Studies which have been made demonstrate that this class of criminal in general constitutes a particular menace to the Maryland community.[48]

In Alabama statutes, the mentally retarded were defined with the statement:

> It is specifically recognized that the greatest danger which the feeble-minded constitute to the community lies in the frequency of the passing on of mental defect from one generation to another...[49]

As late as 1964, the premise that the mentally retarded pose a threat to society was related in Gillen's text, Gillin's Social

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[47]Clarke and Clarke, Mental Deficiency, p. 46.

[48]Von R. Hinkle, "Criminal Responsibility of the Mentally Retarded," American Journal of Mental Deficiency, Volume 65, p. 436.

[49]Lindman, Mentally Disabled, p. 76.

Pathology, in which he postulates that the feebleminded should protect itself from the danger which the mentally defective represent.

Until the end of the nineteenth century, sterilization was considered impractical, due to undesirable changes in the secondary sexual characteristics. The only method at the time was castration. For reasons of eugenics, it was considered too radical. The only other alternative was to separate the defectives, and to allow no contact between the sexes. However, in 1890, Dr. Harry C. Sharpe of the Indiana State Reformatory, developed the method of sterilization for males (vasectomy) about the same time that the now standard method of sterlizing females (salpingectomy) was developed in France.

In 1905, the Pennsylvania legislature passed a sterilization bill "for the prevention of idiocy" which provided:

> ...it shall be compulsory for each and every institution in the State entrusted...with the care of idiots...to appoint (a neurologist and a surgeon) to examine the mental and physical conditions of the inmates...no probability of improvement of the mental condition of the inmate...procreation is inadvisable...to perform such operation for the prevention of procreation as shall be decided safest and most effective.[50]

The bill was vetoed by the Governor due to the inadequate wording:

> The nature of the operation is not described, but it is such an operation as they shall decide to be the safest and most effective. It

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[50]Lindman, Mentally Disabled, p. 184.

> is plain that the safest and most effective methods of preventing procreation would be cut the heads off the inmates, and such authority is given by the Bill to this staff of scientific experts...[51]

The legal battles regarding the sterilization of the mentally defective continued until 1907 when Indiana enacted the first compulsary sterilization law. It has been noted that several state institutions secretly sterilized inmates before the passage of the bill. The controversy, however, is still continuing in regard to the subject of sterilization.

It was first believed that with the control of mental retardation through sterilization, the number of mental defectives would decline; thus, the crime rate would also decline. It is generally believed that mental retardation cannot be cured at the present time. Therefore, the solution of the problem would seem to lie within the prevention of mental deficiency. Although there is evidence to indicate that mentally retarded individuals have more subnormal children than do persons of normal intelligence, it is also necessary to recognize the facts that other causes for mental retardation do exist.

The scientific uncertainity regarding the causes of mental deficiency is best reflected in the recommendations of the American Neurological Association Committee for the Investigation of Eugenical Sterilization. The committee suggested that no measures other than voluntary sterilization be passed until research

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[51] Ibid.

has been conducted further into the matter. The committee has proposed a one-hundred year longitudinal study of several generations in order to more fully grasp the influence of heredity upon mental retardation and the possible effect of mentally deficient individuals upon society.

Sterilization was the "cure" for an intolerable social situation, that of the mentally defective criminal. Dr. Goddard emphasized the relationship between mental defectiveness and a life of crime.

> In regard to criminality, we now have enough studies to make us certain that at least 25 percent of this class is feebleminded. One hundred admissions to the Rahway Reformatory, taken in order of admission, show at least 26 percent of them distinctly feebleminded, with the certainty that the percentage would be much higher if we included the border-line cases.[52]

Statistics abounded: 67 percent of one hundred children in the Detention Home of the City of Newark,[53] fifty-two of the fifty-six girls from a Massachusetts reformatory were distinctly feebleminded,[54] and 40 percent of the inmates of the Elmira Reformatory,[55] and in 65 percent of the cases, the defect was hereditary.[56]

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[52] Goddard, Kallikak, p. 57

[53] Ibid.

[54] Ibid.

[55] Ibid.

[56] Ibid., p. 106.

The effects of heredity upon mental retardation developed into a widely held theory that a psychopathic or neuropathic diathesis or predisposition for a variety of mental abnormalities (as psychosis, neurosis, epilepsy, dullness, or mental defect) occurred in different members of the same family. This would explain the results of many studies which failed to indicate the large proportion of mental defectives which might have existed. Through this theory, family members may show a "form of mental abnormality" or an "undue cerebral vulnerability which establishes a predisposition toward certain nervous and mental disorders" through increasing hazards of "cerebral trauma."[57]

By increasing the predisposition of certain individuals toward mental abnormality, the predisposition toward crime would also increase. The individual is vulnerable. He is weak, incapable, and impulsive, due to his inherited tendencies. The difference in temperment is, to some of the theorists, the key to the mentally defective criminal.

Criminality of high degree was not necessary to prove the existance of a psychopathic or neuropathic diathesis. A drunkard, a sex pervert, a drug addict, all possessed within them the same form of weakness of the mental retardate. The prostitute, women with illegitimate children, women who enjoyed "sexual excesses" were acting upon the same impulse which could, in

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[57]Clarke and Clarke, Mental Deficiency, p. 128.

time, be passed on to future generations. The theory, postulated by Tredgold and Burt, pointed-out the vague predisposition to weakness and vice, the lessening of the more humane instincts, the inability to cope with responsibility and control impulsive behavior, which has characterized thought concerning the mentally retarded for centuries.

Environmental Theories.

> Every feebleminded person, especially the high grade imbecile, is a potential criminal, needing only the proper environment and opportunity for the development and expression of his criminal tendencies.[58]

The advocates of the environmental theories saw the retardate as a potential threat, needing only the workings of the environment to release the inherent evilness within him. Environment was the key to the behavior of the mentally defective.

Within the environmental school of thought, the "feebleminded" were looked upon as being neglected and pathetic "children whose brains never develop."[59] They were the products of "indifferent parents and disordered homes" which "due to those causes, they not only have the difficulties brought about by lack of intelligence, but also the additional hazards of bad environment."[60]

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[58] S.P. Davies, Social Control, p. 92.

[59] Albert Warren Stearns, The Personality of Criminals (Massachusetts: The Beacon Press, Incorporated, 1931), p. 25.

[60] Ibid., p. 26.

Criminality was the result of neglect:

> A few years ago, when we found an excess of feebleminded in prison populations over that in the general community, we thought that we had made a great contribution to penology. It is now known that wherever unsuccessful careers are found, there will be an excess of mental defect just as there is an excess of physical disease. The ordinary feebleminded are not criminalistic as such, and under proper supervision they may lead useful lives.[61]

The neglect of society was to blame for failure to adjust:

> Primitive culture forces them to live in the worst districts of cities...they abound in social disorders. We do not consider that they are abnormal, but they are not trained for the lives which we require of them.[62]

No one is immune to the hazards of environmental experiences, and the theorists hypothesized that perhaps the retarded were more vulnerable than others. Dr. Douglas Armour Thom, in his book, The Everyday Problems of the Everyday Child, showed the effects of faulty habits upon later life, indicating the necessity of environmental control. Shaw's Delinquency Areas in Chicago depicted the effects of living in a "frontier" area upon the young. Fosdick's Study of Prostitution in Europe added to the volumes regarding environmental factors as related to crime.

Sir Bryan Donkin stated,

> Owing to their inherited capacities, and to certain surroundings, a large number of mental defectives tend to become criminals, and

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[61] Ibid.

[62] Stearns, Personality, p. 39.

> a considerable proportion, even twenty percent, of so-called criminals or law breakers are demonstrably mentally defective.[63]

In his study of inmates at Sing Sing Prison, Dr. Bernard Glueck classified four types of offenders, one being the intellectual defectives. He found that none of the cases included in the intellectual defective group had reached a degree of intelligence beyond that of the average American child of twelve years. In many of the cases within this category, the intelligence was much lower.[64] Glueck indicated that the lack of intelligence was responsible for maladjustment, with environmental factors playing a significant role. Many have interpreted the Glueck study as substantial evidence in regard to the theory that all behavior is the product of the interaction of environment and native capacity.

Some of the environmental theorists believed that crime was a disease.[65] The mind and conduct go together, resulting in a narrow border between insanity and crime.[66] The transgressions of the individual lead to fulfillment of the symptoms of the disease, indicating the needs of the individuals for treatment

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[63] John C. Goodwin, Insanity and the Criminal (New York: George H. Doran Company, 1924), p. 13.

[64] Nathaniel Cantor, Crime, Criminals and Criminal Justice (New York: Henry Holt and Company, 1932), p. 117.

[65] Wyndham, Criminology, p. 84.

[66] Ibid., p. 57.

and care. The theory has been substantiated through the correlation of criminality and mental defectiveness.[67] Two factors governed misconduct: "internal" being the result of native capacity or heredity plus mentality, and "external" being the temptation and opportunity.

The mentally defective individual was more prone to criminal behavior, as he has less control over his actions which lead to his crossing the boundaries between crime and insane behavior. Being weak in "internal" factors, the retarded individual is unable to resist "external" factors, and thusly is susceptible to the mental disease of crime.

Nacke further developed the theory of crime as disease when he postulated the "degenerative states."[68] Lack of intelligence, when coupled with a passive or active state will lead to criminal behavior. The passive imbecile will become dangerous through omission (due to weakness of sentiments, purpose, attention, and reflection) while the active imbecile will become dangerous due to impulse and egotism. Nacke combined his theory with that of "moral insanity" and substantiated his findings by basing them upon Blueler's example of the rarity of the morally insane among the normally intelligent.

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[67] Ibid.

[68] De Quiros, Modern Theories, p. 51.

Hooten, in his attempts to differentiate between the criminal and non-criminal, found that criminals represent a biological as well as sociological inferior aggregate in which there is no more unity of type than in the normal non-criminal population.[69] He further found that the more inferior in intelligence tend to gravitate toward the more inferior social and physical environments and "the worst or the weakest yield to social stresses."[70] Hooten expanded his theory and conclusions to add that criminality is the impact of bad environment on "low grade" human organisms.[71]

The environment held to be important is that which affects the individual and to which he responds. The effective environment is composed of the person's social world, which in turn is made up of the objects, persons, and relationships to which he responds in accord to his attitudes. Economic conditions, social factors, and social disorganization are also factors which are considered. In investigating situational factors in relation to mental retardation and crime, Goring postulated:

> an easily imagined corollary...that the mental defectiveness of the convict is antecedent to his environmental misfortunes, rather than that

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[69] Walter C. Reckless, The Etiology of Delinquent and Criminal Behavior (New York: Social Science Research Council, no date), p. 15.

[70] Reckless, Etiology, p. 15.

[71] Ibid.

> his unfortunate circumstances have been responsible for the mental defectiveness of the convict, and his lapse into crime.[72]

There is evidence to suppose that poor environmental surroundings result from, rather than cause, deficiency and criminal behavior. Healy and Gruhle found that the factor of environment was subordinate in the delinquency of the defective individuals. However, research by Abanel, Mathew, Rhoades, Finkle, Brekenridge, and Abbot substantiate the theory that environment is a major contributing factor to the delinquency of the mentally defective.

McCord, McCord and Zola concluded in their study "that low intelligence does not lead...into crime..."[73] Although the surveyors presumed intelligence to be inherited, other factors surveyed with the results that individuals who had neurological handicaps (brain damage, epilepsy, etc.) tended to turn to crime than did those who were "normal"; that neighborhoods with high crime rates produce more individuals who enter criminal life-style; and that conditions within the family, especially those concerned with the basic socialization process determine the inclinations of individuals toward or away from criminal patterns.[74]

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[72] James Burt Miner, Deficiency and Delinquency (Baltimore: Warwick and York, Incorporated, 1918), p. 227.

[73] William McCord, Joan McCord, and Irving Zola, Origins of Crime (New York: Columbia University Press, 1959), p. 66.

[74] Ibid., p. 73.

Goddard theorized that the mentally retarded who might be classified as a "criminal type" are those of

> nervous, excitable, irritable kind who try to make a living, and not being able to do it by a fair day's work and honest wages, attempt to succeed through dishonest methods. 'Fraud is the force of weak natures.' These become the criminal type. The kind of criminality into which they fall seems to depend largely upon their environment. If they are associated with vicious but intelligent people, they become the dupes for carrying out any of the hazardous schemes that their more intelligent associates plan for them...these are the people of good outward appearance, but of low intelligence, who pass through school without acquiring any efficiency, then go out into the world and inevitably fail...[75]

The delinquency or criminality of the mentally retarded offender may be greatly influenced by the diminished capacity to learn, but the amount of education and of social adaptation and experience also influence behavior. "The defective individual is led into delinquency very easily through failure to understand...[76] The retarded offender often is not aware of what he should or should not do. He fails to learn from experience. He is easily influenced by others. However, other environmental influences may be noted to effect behavior.

Climate, weather, temperature, state of the atmosphere, repugnant occupation, and in harmonious blending of colors have been noted as having an effect upon the reactions of an individual toward society or other persons.[77] Environment influences,

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[75] Goddard, Kallikak, pp. 55-56.

[76] Radzinowiez and Turner, Mental Abnormality, p. f.

[77] Goodwin, Insanity, p. 56.

some of which tend to be extremely general, some being inescapable, are of particular importance in the relationship of mental retardation and criminality.[78] The environment is influential perhaps, due to the suggestibility of the individual. However, the effect of environment depends on the type of individual concerned.

The type of individual, in regard to the mentally retarded offender, is of importance when noting the influence of environment upon behavior. The aptitude of the individual will become a factor within the environment. The appreciation of the nature and consequences of an act may make the high-grade retardate more prone to aggravate rather than to diminish criminal activity. The defective who robs or assaults may, by recognition of the punishment which he expects, seek to prevent denunciation by murdering his victim.[79] He may be more inclined to do this as his lack of critical judgement makes him confident that he will be able to control the situation himself, and to conceal his guilt through his own abilities.[80] In such cases of anti-social behavior, factors other than mental defect need to be accounted for and their relationship to the act analyzed.

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[78] Lange, Destiny, p. 193.

[79] Sullivan, Crime and Insanity, p. 189.

[80] Ibid.

> It is highly probable than (sic) many feeble-minded and subnormal offenders become offenders for reasons not bearing on their mental condition... there is nothing in the nature of subnormality or feeble-mindedness which must lead to criminality.[81]

It has been suggested that perhaps the greatest factor linking mental retardation with crime is that of the crisis of puberty.[82] During this period many mental disturbances make their appearance, even among the mentally retarded, who are inadequately endowed or prepared to cope with such problems realistically or adequately.

Through the infantilisms which develop in behavior during puberty, the idea that criminality occurs may be maintained. Crime becomes a system of puberty, manifest in aggressiveness, aversions, and emotional extremes. The factor of intelligence is not as prevalent as the emotional factor which is usually poorly controlled and expressed by the mentally retarded. Intelligence, however, does become a factor in the retarded in the means and manner of emotional expression and type of behavior which is employed to cope with the demands of puberty.

The factor of puberty has also been equated with the restlessness which may often account for delinquency in the retardate.

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[81] Walter C. Reckless, Criminal Behavior (New York: McGraw-Hill Book Company, 1940), p. 205.

[82] Hans Von Hentig, Crime, Causes and Conditions, (New York: McGraw-Hill Book Company, 1947), p. 141.

Other factors which often may account for or add to the delinquency pattern are the need for new social experiences, absence of qualifications, lack of educational attainment, climate of the neighborhood, boredoms, inadequacy in unskilled job, and unsupervised social contact.[83]

Morel stressed similar factors of social environment, industrial stress, unhealthy occupation, and pathological transformation as being related to the delinquency of the subnormal.

The infantile mental status of the mentally retarded has long been attributed as a cause of crime. Acts of the feeble-minded have been classed as being mischievous tricks as indicated in the classic case of the "idiot who cut off the head of a man whom he found asleep, remarking that it would be great fun to see him look for it when he woke."[84]

Recently, emphasis has been placed upon factors which exist within the immediate social environment. Economic factors are becoming more and more important in the study of the relation of crime to life-style.

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[83]J.E. Meade and A.S. Parkes, eds., Genetic and Environmental Factors in Human Ability (London: Oliver and Boyd, 1961).

[84]Charles Mercier, Criminal Responsibility (New York: Physicians and Surgeons Book Company, 1926), p. 215.

> Low wages necessitate poor food, and not enough of that. They also necessitate a humble dwelling among thousands of other mortals similarly exploited.[85]

The effects of inflation during the postwar period and the United States' economic structure during the interim period have provided some information regarding the effects of economic status upon the delinquency of the mentally retarded has been collected. However, economic status and mental retardation have been equated due to prenatal care available, training, diet, and style of life which may cause mental retardation, and in the case of life-style, may contribute to delinquent behavior.

Other social factors being considered are the broken home; sibling rivalry and position; unsatisfactory relationships in the family; presence of demoralized persons in the home; and the total influence of the family. The home which exists with internal conflict and discord may be a prime cause of delinquency. The shaping effect of environmental influences upon family members within the home creates some of the behavior patterns which lead to delinquent and criminal behavior within society.

> One of the more gross analysis of human behavior has been the idea that all the characteristics of a retarded person reflect mental retardation alone. In this analysis of human behavior, the way

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[85]Goodwin, Insanity and the Criminal, p. 161.

> a retarded child acts and his over-all personality are accounted for by considering his mental retardation. This over-simplification ignores the fact that retarded youngsters, like all young people, develop as a result of the way they are raised. Early training determines later effectiveness in retarded youngsters as in normal children. Only the more profoundly retarded child is an exception.[86]

It is important in considering the characteristics of the mentally retarded to note the way in which they behave in relation to other individuals. It has been found that children tend to associate with others nearer their own intellectual capacity and to reject others. The extreme marginal acceptance or rejection by the peer group and family members of the retarded individual becomes another factor in the delinquency issue.

Another factor which is being researched is that of pseudo-feeblemindedness. Arthur, Benton, and Kratter have provided an environmental theory of pseudo-feeblemindedness which may be compared with the constitutional theory of "moral insanity."

Pseudo-feeblemindedness, as pointed out by Benton, has two meanings: the term may be applied to a mistaken diagnosis; or to behavior which is correctly attributed to mental retardation but is the result of unusual etiologic or antecedent conditions.[87] Sociocultural retardation may be included within

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[86]Thomas E. Jordan, The Mentally Retarded (Ohio: Charles E. Merrill Books, Incorporated, 1961), p. 43.

[87]Jordan, Mentally Retarded, p. 85.

the classification of pseudo-feeblemindedness, as may be emotional deprivation, and some psychosis-like states. Emotional deprivation may be linked to criminal hostility and delinquent behavior in the retardate.

It has been found that retardates tend to act in an "extropunitive" fashion, turning their frustrations outward and reacting against others.[88] Research has substantiated this. Potnoy, Stacey, Angelion and Shedd have shown this to be the usual manner of reaction leading to delinquent or criminal acts. However, as of the present time, this is a generalization which requires further research.

Many feel that emotional factors are not as great an issue in the criminality of the mentally retarded as in the lack of ability to project in time.

> ...it may be postulated that an adult of IQ 50-60 does not have capacity for adequate foresight, and thus often reacts to the momentary situation... He appears impulsive not so much because of emotional make-up but because it is his nature to react to the present with little ability to project his act either to the past or to the future.[89]

The factor of intelligence may in itself be related to delinquent or criminal behavior. The older high-grade retardate may have more opportunity to get into trouble due to the fact

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[88] Ibid., p. 88.

[89] Jordan, Mentally Retarded, p. 89.

that he requires less care and is more able to move freely in the community.[90] Low-grade retardates are more noticeable and therefore more restricted in movement throughout the community. The high-grade defective who becomes involved in trouble within the community has been allowed the greater personal freedom of action than the lower level defective.[91]

The amount of intelligence may be a primary factor in the type of offense committed. Mental retardation is more pronounced as a factor in certain types of female offenders than in others, especially in offenses regarding chastity.[92] Both high and low grade retardates are found to commit relatively the same type of offenses, but the high-grade defective tends to commit offenses most often.[93] The most common offenses in which the retarded participate are running away, truancy, getting lost, fighting, stealing, and sexual misbehavior ranging from promiscuity, prostitution, exhibitionism and homosexual behavior, to child molesting and rape.[94]

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[90]Gerhart Saenger, Director, "Factors Influencing the Institutionalization of Mentally Retarded Individuals in New York City," Report to the New York State Interdepartmental Health Resources Board, January, 1960, p. 59.

[91]Saenger, Report, et passim.

[92]Otto Pollak, The Criminality of Women (Philadelphia: University of Pennsylvania Press, 1950), p. 115.

[93]Saenger, Report, p. 59.

[94]Ibid.

In evaluating environmental factors in relationship to mental retardation and crime, certain factors seem to be well established as etiological results:

1. Mental retardates have a higher proportion of dull or deficient parents, siblings, and other relatives than do members of the normal population; the closer in blood relationship, the closer the similarity of intellectual and social status.

2. A higher proportion of the children of subcultural defectives are dull or defective than the children of normal people.

3. The majority of the parents, siblings, and children of subcultural defectives are not themselves defective nor even very dull. (This applies to individuals who have been brought up in poor homes or in institutions, where the environment may be assumed to have been below normal and in some cases markedly adverse).

4. The large majority of residents of mental deficiency institutions and special education facilities are drawn from the lowest strata of society, and have been subjected to adverse experiences, and have suffered great cultural and social deprivation.[95]

It is assumed that heredity plays an essential part in determining the limits of intellectual development, but it is now realized that these limits are considerably wider than was formerly thought. With a moderately uniform environment, individual differences would result from genetic variation. The mentally retarded, however, have been reared and exposed to extremely adverse conditions in western culture, and often are further confined in institutions and residential schools which limit their spectrum of potentialities.[96]

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[95] Clarke and Clarke, Mental Deficiency, pp. 132-3.

[96] Ibid., p. 119.

A distinction cannot be made between nature and nuture. The individual cannot be divided between one or the other. No human may live and at the same time be distinctly apart and remote from the society and influences of other human beings around him. His development is governed by a system of interactions, by which he is continually molded, and to which he adds his own individuality.

3.3 Treatment of the Defective Offender

The defective offender is a most troublesome category of offenders in regard to rehabilitation and treatment programs. This group includes those in whom anti-social tendencies are found to be so deep seated as to require care and treatment different from that of the usual mental deficiency institution programs. Life-long custody of many of this class may be the most desirable alternative.[97]

Defective offenders have been found to be a small minority of the mentally retarded, yet they have proved vastly more troublesome to the community and the institutions than other categories of deficients.

The mentally retarded offender is found in certain proportion among other offenders. Often they are the recidivists, appearing frequently before magistrates. The usual procedures

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[97]Davies, Mentally Retarded in Society, p. 71.

of the court are insufficient to deal with such individuals through programs of probation, indeterminate sentence, and parole as these programs are based on the assumption that the offender has normal potentialities and can be socially rehabilitated. For others within this category, who have not committed serious acts but whose anti-social tendencies are recognized, the regular state training school offers little or no help.

Within the state institutions, the presence of a small number of such defective offenders pose serious problems as Dr. Fernald has stated:

> Many of this class are defiant, abusive, profane, disobediant, destructive, and incorrigible generally. They honestly feel that they are unjustly confined...They frequently attack those who are responsible for their custody. They resent any effort to amuse or entertain them. They cannot be discharged because they are not safe persons for community life...It is most unfortunate that this criminal type of defective...who constitutes the legitimate problem of a school for the feeble-minded...[98]

Special Programs. In 1910, the first law in this country for the removal of the defective delinquent from the state schools and prisons, and providing a special place for the custody of such, was passed. Massachusetts provided the inmates of the special institution which was organized under the 1910 law with a program which emphasized the rehabilitation of the whole personality with minimal custodial care.

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[98]Davies, Mentally Retarded in Society, p. 72.

The inmates were housed in separate rooms (not cells), with outside windows. There is a highly organized medical, educational, recreational, and industrial training program provided. Sentences are indeterminate. Discipline is rigid.

In 1951, the legislature of Maryland enacted a defective delinquent statute. The law established a procedure for determining what and whom would be a "defective delinquent"; established Patuxent Institution as a therapeutic and correctional center for such individuals; and provided for the commitment of the defective delinquent for as long as he is deemed a danger to society.[99]

Patuxent provides psychotherapy, vocational rehabilitation, occupational therapy, and a therapeutically oriented milieu. The program is based upon a graded tier system through which the individual progresses as internal change and responsible behavior are brought about. The entire system is based upon a non-punitive atmosphere.

The basic goal is to teach the delay of gratification of impulses. A system of rewards through special privileges is used to reinforce positive aspects of behavior. The institution is based upon the following stated principles:

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[99]Emory F. Hodges, "Crime Prevention by the Indeterminate Sentence Law" (Paper presented at the American Psychiatric Association Annual Meeting, Washington, D.C., May 7, 1970.)

1. Through immediate counseling and information, we allay the anxiety and fear a patient feels when he is admitted.

2. Through the graded tier system and the psychiatric milieu we reward socially approved behavior.

3. By means of psychotherapy and the indeterminate sentence we stimulate motivation for change and a desire to understand problem areas.

4. In his contacts inside and outside Patuxent, the patient experiences consistency, continuity and support.[100]

Such institutional programs seem to be the key in the treatment of the defective offender. However, many of the retarded remain in the prisons and jails rather than in a special setting designed for their benefit and rehabilitation.

Mentally Retarded Adult Offender. The mentally retarded have long been residents of jails and correctional institutions. There was no other place in society for them.[101] However, the mentally defective offender has become a special consideration within the correctional setting. The National Commission of Law Observance and Enforcement of 1931, the Wickersham Commission, recognized the special problems of rehabilitating the mentally retarded and urged that a system of classification be used in order to organize the plan of development and treatment within the prisons if special facilities were not available. The commission noted:

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[100]Harold M. Boslow and Sigmund H. Manne, "Mental Health in Action," Crime and Delinquency, (1966), pp. 22-28.

[101]Davies, Social Control, p. 35.

> What is true of the insane is quite as true of the feebleminded...But the behavior difficulties and special problems raised by this type of prisoner when in a prison are so serious that, with the aid of the physician, psychologist and psychiatrist, he ought to be eliminated from the prison population and transferred to an institution especially developed for his type...This group of prisoners are chronic violators of prison rules and frequently the butt of the prison community...This group requires specialized treatment which is not available in the ordinary prison...[102]

For many years it has been advocated that the defective delinquent and offender be separated from the others for special treatment, consisting of close custodial care for the longest period of time possible. Such proposals do not stem from ignorance nor indifference to the special needs of these prisoners by correctional authorities. Rather, they are the results of limited resources which cannot be stretched to meet the needs of the retarded and the "normal" inmates, and that the prison system was developed at a time when there was inadequate recognition of the various types of people who comprise the prison population, and the multiple needs and factors involved in the rehabilitation process.

The President's Commission on Crime in the District of Columbia reported that "Nearly every agency involved in law enforcement and the administration of justice is impaired by lack of

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[102]Wickersham Commission Reports, Number 9 - Report on Penal Institutions, Probation and Parole, George W. Wickersham, Chairman (Washington, D.C.: U.S. Government Printing Office, 1931), p. 66.

facts."[103] Due to the lack of factual information, many of the conceptions regarding treatment and needs of the mentally retarded offender are based on the theoretical assumption and orientations of agency administrators.

> Although there is a paucity of factual information about mental retardation and crime, there has been no shortage of opinions about it through the years. About a half century ago it was pretty widely believed that every intellectually impaired person was a likely delinquent, and that most criminal offenders were such because of impaired intellect. The polemicists have now come full circle and it is today just as stoutly maintained by some members of the scientific, legal, and correctional communities chat mental retardation bears no causal relationships to crime.[104]

There is, however, growing recognition of the fact that the retarded offender is faced with numerous problems of personal adjustment, family concern, behavior and many times, environmental and cultural deprivation.[105] The correctional treatment programs instituted by penal systems are becoming oriented toward treatment appropriate to the condition of the mentally retarded rather than treatment geared to criminality.[106]

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[103] Report of the President's Commission on Crime in the District of Columbia (Washington, D.C.: U.S. Government Printing Office, 1966), p. 355.

[104] Richard C. Allen, "The Retarded Offender: Unrecognized in Court and Untreated in Prison," Federal Probation, Vol. 32 (3), 1968, p. 22.

[105] South Carolina Department of Mental Retardation, File-Y: 35-83: O A Plan for the Youthful Mentally Retarded Offender.

[106] Allen, "Retarded Offender," p. 27.

4.0 SUMMARY

Within ancient times, the Middle Ages, and the Renaissance, mental retardation was considered a justifiable condition. Sin, God, nature, all contributed to the pathetic condition which the "unfortunates" had to bear. Such individuals were tolerated or ignored. Many were considered amusing natural curiosities.

However, as the structure of societies changed and technical advancement was begun, the "unfortunates" became surplus population, being relegated to the almshouses, asylums for the mentally ill, or the jails. With increased learning and technical ability, the mentally retarded had no real place within advancing society.

The first organized program for the retarded which had a lasting effect was begun in 1937 by Dr. Edouard Seguin. Through the encouragement of his work and efforts, schools for the mentally retarded were open in America, England, and Europe. In 1846, the first institute for the mentally retarded was opened in Massachusetts, which became the foundation of the American system of special institutions for the mentally and physically handicapped.

Within America, the first professional organization now known as the American Association on Mental Deficiency was organized by medical officers of institutions in 1876.

The 1800's was a humanitarian period. Mental retardation was believed to be curable. The quality of the programs and care offered within the institutions was the finest which could be supplied. State and federal governmental agencies became interested in mental retardation, and through financial sponsorship were able to encourage many of the programs established at the time.

Beginning about 1900, a period of pessimism began which lasted almost thirty years. The hopes of finding a cure for mental retardation had not been realized. Custodial care began to be the issue. Many of the prior training programs were deserted, and funds which had been used for treatment were applied toward life-long care. Eugenics became a major social issue. Mental retardation as a cause or factor within crime became a part of the sociological structure of the times.

About 1930, a more tolerant attitude toward the retarded began. Testing of intelligence began to be re-standardized. It was found that the intelligence of criminals did not vary greatly from the general population. The previously held convictions of heredity were reconsidered, and it was found that a surprising number of mentally retarded individuals made good adjustments within the community.

World War II brought about increased recognition and acceptance for the retarded through the labor shortages which resulted.

Due to the fact that the mentally retarded could be trained to become workers, and were able to do jobs without creating serious problems to the community, new expectations regarding the mentally retarded came about.

In 1950, the organization of parents groups and the establishment of the National Association for Retarded Children helped to bring about progress. President John F. Kennedy helped to accelerate public understanding and support for improved services. Thus, recently, another humanitarian era has begun concerning the mentally retarded.

The attitude of the public toward the mentally retarded offender has often been one of acceptance. For decades, the mentally retarded were equated with criminals, and therefore it was of little surprise to society if a mentally deficient individual became involved in criminal or delinquent activity.

From 1890 to 1920 there was enthusiasm regarding the relationship of mental deficiency and crime. Theories developed before World War I generally assume a relationship between mental retardation and criminal behavior.

With the 1920's, there was a tendency to gather mental retardation, insanity, crime, and degeneracy in one large category of "deviancy." Goddard's works characterized this era, and the factor of mental defect was made to appear as the major causal factor in criminal behavior.

Following the 1920's there was a period which appeared to be a reaction against the position that intelligence was a significant factor in causing criminal or delinquent behavior. It was generally believed that behavior was learned, and thusly, the environmental factors were to be more considered than was the IQ.

At present, there is again a movement to find the relationship of mental retardation and crime. (Table 3 summarized the various theoretical relationships.) The Kennedy Task Force on Law provided the impetus for research within the field. However, the present movement is stimulated not only to find the relationship between mental retardation and anti-social behavior, but to find ways and means of treating the defective delinquent, preventing such behavior in the future, and finding the factors which add to or create the tendencies for delinquent or criminal behavior within a defective individual.

TABLE 3

Nature and Genesis of Crime - Types of Theories

Anthropological

Nature	Genesis	Proponent(s)
Atavistic	Organic and Psychic	Lombroso, Broca, Benedikt, Muller, Hackel
	Psychic	Colajanni, Ferrero
Degeneration	General	Morel, Magnan, Fere, Laurent, Corre, de Montyel, Dallemagne
	Specific	Marro, Virgilio, Dally, Minzloff, Gonfigli, Ribot, Koch, Galton, Butler, Despine, Bleuler, Garofalo, Jelgersma
	Epilepsy	Roncoroni, Lewis, Ottolenghi, Lombroso, Capano, Tonnini, Cividalli
Pathological	Neurasthenia	Benedikt, Liszt, Vargha, Beard, Hoppocrates, Dally, Minzloff, Maudsley
	Psychopathic State	Ingegnieros

Socio-biological

Criminal Biology	Constitutional Factors	Viernestein, Lenz
Socio-biological	Total Personality Factors	Bronner & Healey, Raumer, Vervaeck, Gluecks

TABLE 3 (con't.)

	Etiological	
Systematic Criminal Behavior	Association	Sutherland
Norms and Conduct	Resistance to Weakness in Cultural Patterrs	Sellin
	Sociological	
Anthropo-Sociologic	Heredity and Social Contagion	Lacassagne, Aubry, Dubuisson, Fere, Morel, Moreau, Ravoux
	Failure in Adaptation	Vaccaro, Garofalo, Despine
Social Theories	Segregation	Aubert
	Parasitism	Nordau, Salillas, Dorado
	Social Philosophy	Spencer, Darwin
Socialistic Theories	Socialistic	Ferri, Galfaro, Lombroso
	Scientific Socialism	Colajanni, Loria, Turati, Pramolini, Zorla, Battaglia, Prins, Tarde Bauer, Manouvrier, Raux, Kirn

SELECTED BIBLIOGRAPHY

BIBLIOGRAPHY

Books

Allen, Richard C. Legal Rights of the Disabled and Disadvantaged. Washington, D.C.: U.S. Department of Health, Education, and Welfare, 1969.

Aquinas, St. Thomas. The Disputed Questions on Truth. Translated by Robert W. Schmidt. Chicago: Menery Regnery Company, 1954..

Biggs, John. The Guilty Mind. New York: Harcourt, Brace and Company, 1955.

Binney, Cecil. Crime and Abnormality. London: Oxford University Press, 1949.

Boyd, William. From Locke to Montessori. London: George G. Harrap and Company, 1914.

Brim, Charles J. Medicine in the Bible. New York: Froben Press, 1936.

Cantor, Nathaniel. Crime, Criminals and Criminal Justice. New York: Henry Holt and Company, 1932.

Clarke, Geral R. A Synopsis of Mental Retardation. Pennsylvania: Elwyn Institute, 1967.

Clarke, Ann M., and Clarke, A.D.B., ed. Mental Deficiency, the Changing Outlook. London: Methuen and Company, Limited, 1958.

Cotton, Henry A. The Defective Delinquent and Insane. Princeton: Princeton University Press, 1921.

Cowie, John; Cowie, Valery; and Slater, Eliot. Delinquency in Girls. London: Humanities Press, 1968.

Davidson, Thomas. The Education of the Greek People. New York: D. Appleton and Company, 1906.

Davies, S. P. The Mentally Retarded in Society. New York: Columbia University Press, 1959.

_____. Social Control of the Mentally Deficient. New York: Thomas Y. Crowell, 1930.

Farber, Bernard. Mental Retardation Its Social Context and Social Consequences. Boston: Houghton Mifflin Company, 1968.

Foxe, John. The Book of Martyrs. London: Cassell and Company, Limited, no date.

Fuller, Ronald. The Beggars' Brotherhood. London: George Allen and Unwin, Limited, 1936.

Fynne, Robert John. Montessori and Her Inspirers. London: Longmans, Green and Company, 1924.

Goddard, Henry Herbert. The Kallikak Family, A Study in the Heredity of Feeble-mindedness. New York: The MacMillan Company, 1925.

Goodwin, John C. Insanity and the Criminal. New York: George H. Doran Company, 1924.

Haller, M. H. Eugenics. New Jersey: Rutgers University Press, 1963.

Henderson, Charles Richmond. The Cause and Cure of Crime. Illinois: A. C. McClung and Company, 1914.

Hutt, Max L., and Gibby, Robert Gwyn. The Mentally Retarded Child Development, Education, and Guidance. Boston: Allyn and Bacon, Incorporated, 1958.

Hyslop, Theophilus Bulkeley. The Great Abnormals. London: Philip Allen and Company, 1925.

Jeffery, C. R. Criminal Responsibility and Mental Disease. Illinois: Charles C. Thomas, Publisher, 1967.

Jordan, Thomas E. The Mentally Retarded. Ohio: Charles E. Merrill Books, Incorporated, 1961.

_____. Perspectives in Mental Retardation. Illinois: Southern Illinois University Press, 1966.

Laurie, S. S. Studies in the History of Educational Opinion from the Renaissance. Cambridge: University Press, 1905.

Levinson, Abraham. The Mentally Retarded Child. New York: John Day Company, 1965.

Lindman, Frank T., and McIntyre, Donald M., eds. The Mentally Disabled and the Law. Illinois: University of Chicago Press, 1961.

Lombroso, Cesare. Crime: Its Causes and Remedies. Translated by Henry P. Horton. Massachusetts: Little, Brown, and Company, 1911.

Magoffin, Ralph V. D., and Duncalf, Frederic. Ancient and Medieval History. New York: Silver, Burdett and Company, 1934.

McCord, William; McCord, Joan; and Zola, Irving. Origins of Crime. New York: Columbia University Press, 1959.

Mead, J. E., and Parkes, A. S., eds. Genetic and Environmental Factors in Human Ability. London: Oliver and Boyd, 1966.

Mercier, Charles. Criminal Responsibility. New York: Physicians and Surgeons Book Company, 1926.

Miller, Daniel R. The Criminal Classes, Causes, and Cures. Ohio: United Brethren Publishing House, 1903.

Miner, James Burt. Deficiency and Delinquency, An Interpretation of Mental Testing. New York: Warwick and York, Incorporated, 1918.

Newman, Roger W., ed. Institutionalization of the Mentally Retarded. New York: National Association of Retarded Children, 1967.

Notestein, Wallace. A History of Witchcraft in England From 1558 to 1718. New York: Russell and Russell, 1965.

Penrose, Lionel S. Mental Defect. New York: Farrar and Rinehart, Incorporated, 1934.

Pollak, Otto. The Criminality of Women. Philadelphia: University of Pennsylvania Press, 1950.

De Quiros, C. Bernaldo. Modern Theories of Criminality. Translated by Alfonso De Salvio. New York: Agathon Press, Incorporated, 1967.

Radzinowicz, L., and Turner, J. W. C., eds. Mental Abnormality and Crime. London: MacMillan and Company, 1949.

Reckless, Walter C. Criminal Behavior. New York: McGraw-Hill Book Company, 1940.

_____. The Etiology of Delinquent and Criminal Behavior. New York: Social Science Research Council, no date.

Ribton-Turner, Charles James. A History of Vagrants and Vagrancy, and Beggars and Begging. London: Chapman and Hall, 1887.

Smith, Henry. Responsible or Irresponsible? Criminal or Mentally Diseased? A Plea for the Unjustly Convicted and On the Cause of Crime. London: Watts and Company, 1889.

Stace, W.T. A Critical History of Greek Philosophy. London: MacMillan and Company, Limited, 1965.

Stearns, Albert Warren. The Personality of Criminals. Massachusetts: The Beacon Press, Incorporated, 1931.

Sullivan, William C. Crime and Insanity. London: Edward Arnold and Company, 1924.

Vold, George B. Theoretical Criminology. New York: Oxford University Press, 1958.

Von Hentig, Hans. Crimes, Causes and Conditions. New York: McGraw-Hill Book Company, 1947.

Welsford, Enid. The Fool, His Social and Literary History. New York: Doubleday and Company, Incorporated, 1961.

Woodward, William Harrison. Studies in Education during the Age of the Renaissance 1400-1600. Cambridge: University Press, 1924.

Wyndham, Horace. Criminology. New York: Jonathan Cape and Harrison Smith, Incorporated, no date.

Reports

Committee on Nomenclature and Statistics of the American Psychiatric Association. Report of the Commission. Diagnostic and Statistical Manual of Mental Disorders. Washington, D.C.: American Psychiatric Association.

File Y:35-83:0 A Plan for the Youthfull Mentally Retarded Offender. James B. Berry, Chairman. South Carolina: Southern Carolina Department of Mental Retardation, 1969.

Hodges, Emory F. Crime Prevention by the Indeterminate Sentence Law. Washington, D. C.: American Psychiatric Association, 1970.

Saenger, Gerhart. Factors Influencing the Institutionalization of the Mentally Retarded Individuals in New York City. Report to the New York State Interdepartmental Health Resources Board, January, 1960.

Newspaper Articles

Goldin, Augusta. "How to Detect and Treat Mentally Retarded Children." Houston Chronicle. July 5, 1971.

Journal Articles

Boslow, Harold M., and Manne, Sigmund H. "Mental Health in Action." Crime and Delinquency, 1966.

Clausen, F. "Mental Deficiency - Development of a Concept." American Journal of Mental Deficiency, 71 (5) (1967).

Cranfield, Paul. "Little Known English Versions of the Praxis and Observations of Felix Platter." Journal of History of Medicine and Allied Sciences, 17 (2) (1962).

Hinkle, Von R. "Criminal Responsibility of the Mentally Retarded." American Journal of Mental Deficiency, 65 (1967).

Nowry, J. E. "A Brief Synopsis of Mental Deficiency." American Journal of Mental Deficiency, 49 (1945).

Zeleny, L. D. "Feeble-mindedness and Criminal Conduct." American Journal of Sociology, 38 (1933).

Government Publications

President's Commission on Law Enforcement and the Administration of Justice. Report of the President's Commission on Law Enforcement and the Administration of Justice. Washington, D. C.: U.S. Government Printing Office, 1969.

President's Commission on Crime in the District of Columbia. Report of the President's Commission on Crime in the District of Columbia. Washington, D. C.: U.S. Government Printing Office, 1966.

U. S. Department of Health, Education, and Welfare. Mental Retardation Activities of the Department of Health, Education, and Welfare, January, 1971. Washington, D. C.: U. S. Government Printing Office, 1971.

Wickersham Commission Report. George W. Wickersham, Chairman. Washington, D. C.: U. S. Government Printing Office, 1931.

PROJECT CAMIO

Correctional Administration and the Mentally Incompetent Offender

Volume 1 Strategies for the Care and Treatment of the Mentally Retarded Offender

Volume 2 Theories on Criminality and Mental Retardation

Volume 3 The Mentally Retarded and the Law

Volume 4 The Mentally Retarded in an Adult Correctional Institution

Volume 5 The Mentally Retarded in a Juvenile Correctional Institution

Volume 6 The Delinquent in a State Residential Facility for the Mentally Retarded

Volume 7 The Mentally Retarded and the Juvenile Court

Volume 8 A National Survey of the Diagnosis and Treatment of Mentally Retarded Offenders in Correctional Institutions